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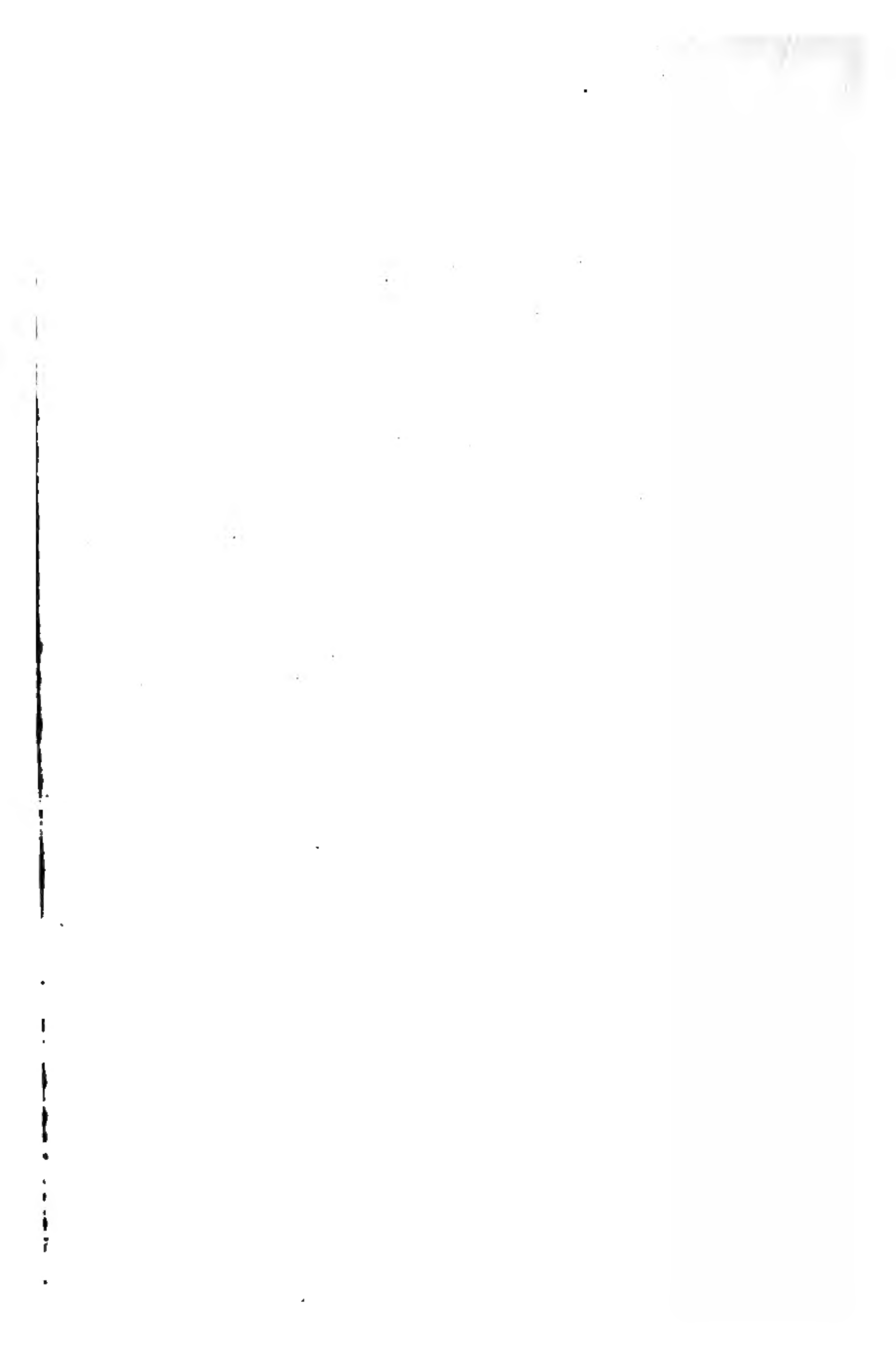
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# REAL PROPERTY STATUTES

OF

WASHINGTON (TERRITORY,) *Laws, statutes, etc.*

FROM

1843 TO 1889,

COMPRISING THE

## LAWS AFFECTING REAL PROPERTY

ENACTED BY THE

LEGISLATIVE COMMITTEE AND LEGISLATIVE ASSEMBLY OF OREGON  
TERRITORY PREVIOUS TO 1853, INCLUDING THE STATUTES OF  
IOWA OF 1839 AND 1843, TOGETHER WITH THE ORGANIC  
ACTS, ENABLING ACT, STATE CONSTITUTION

AND

TREATIES, PROCLAMATIONS AND SPECIAL LAWS OF CONGRESS,  
SUCH AS THE DONATION ACTS, RAILROAD GRANT  
AND OTHER PRIVATE ACTS, INDIAN  
TREATIES, EXECUTIVE  
ORDERS, ETC.

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BY

T. O. ABBOTT,

TACOMA, WASH.

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OLYMPIA, WASH.:

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1892.



## PREFACE.

The statutes of the late Territory of Washington are so difficult of access as to render the phrase "out of print" specially applicable, if not literally correct. The library, if such exist, that can boast a complete set is, indeed, fortunate. A full set consists properly of thirty-three volumes. The original editions, besides having been very limited, have been seriously reduced, not only by ordinary loss and destruction, but by several extraordinary causes, such as the disastrous fires occurring in the principal cities of the Territory in the year 1889. The rapid growth of population and the rapid rise of real property values, by virtue of largely increasing the demand, has likewise rendered them scarce. Inasmuch as these statutes contain a very large mass of matter of no present force or value whatsoever, it has been found impracticable to reprint them entire. Such laws, however, as relate to the acquisition, enjoyment and disposition of real property, are indispensable. It has, therefore, been deemed of importance that there should be provided some compact arrangement of such laws, with a view of facilitating and making sure the examination of title. This volume is intended to supply this need. Its scope embraces all the laws relating to real property enacted during the Territorial condition, covering the period from the 5th day of July, 1843, when Oregon (of which Washington then formed a part) assumed a *quasi*-independent form of government (known as the "Provisional Government"), to the 11th day of November, 1889, when the President's proclamation brought the State of Washington into being. Also such *special* laws (bearing on the same subject) enacted by the congress of the United States during the same period, together with such treaties and executive orders and proclamations as are especially applicable.

In the preparation of this work recourse has been had to the fol-

lowing volumes, to which reference is made in the manner here indicated in parenthesis:

(“Treaties and Conventions, 1889.”)<sup>1</sup>

United States Statutes at Large .....	( U. S. Stat.)
United States Revised Statutes .....	( U. S. R. S. 1878.)
Laws of Iowa Territory, first session, 1839 <sup>2</sup> .....	( Laws Iowa Ter. 1839.)
Revised Statutes of Iowa, 1843 <sup>3</sup> .....	( R. S. Iowa Ter. 1843.)
Laws of Oregon Territory, 1843-49 <sup>4</sup> .....	( Laws Or. Ter. 1843-49.)
Laws of Oregon Territory, 1850-51 .....	( Laws Or. Ter. 1850-51.)
Journal and Local Laws Oregon Territory, 1850-51 <sup>5</sup> .....	( “ Journal and Local Laws ” Or. Ter. 1850-51.)
Laws of Oregon Territory, 1851-52 .....	( Laws Or. Ter. 1851-52.)
Laws of Oregon Territory, 1852-53 .....	( Laws Or. Ter. 1852-53.)
Laws of Washington Territory, 1854 .....	( First Reg. Sess. 1854.)
Laws of Washington Territory, 1854-55 .....	( Second Reg. Sess. 1854-55.)
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Laws of Washington Territory, 1856-57 .....	( Fourth Reg. Sess. 1856-57.)
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Laws of Washington Territory, 1879 .....	( Seventh Bien. Sess. 1879.)
Laws of Washington Territory, 1881 .....	( Eighth Bien. Special Sess. 1881.)
Code of Washington Territory, 1881 .....	( Code 1881.)
Laws of Washington Territory, 1883 .....	( Ninth Bien. Sess. 1883.)
Laws of Washington Territory, 1885-86 .....	( Tenth Bien. Sess. 1885-86.)
Laws of Washington Territory, 1887-88 .....	( Eleventh Bien. Sess. 1887-88.)

<sup>1</sup>A volume printed by the United States government, containing treaties not to be found in the Statutes at Large.

<sup>2</sup> For authority for the use of this volume see *infra*, p. 28, No. 23, § 5.

<sup>3</sup> For authority for the use of this volume see *infra*, p. 26, No. 21, § 1.

<sup>4</sup> This is a volume printed in 1853 and said to contain “laws of a general and local nature passed by the legislative committee and legislative assembly, at their various successive sessions from the year 1843 down to and inclusive of the session of the Territorial legislature held in the year 1849; except such laws of said session as were published in the bound volume of Oregon Statutes, dated Oregon City, 1851. Collected and published pursuant to an act of the legislative assembly passed January 26, 1853.”

<sup>5</sup> A volume containing the detailed proceedings of the legislative assembly, together with several laws enacted at that session and not elsewhere published.



In the use of this work it is necessary to understand and bear in mind the following points:

*First:* Laws governing the manner of opening and maintaining county roads—except in so far as they relate to revenue or taxation—and laws governing practice in the courts—except in so far as they relate to jurisdiction—cannot be found in this work.

*Second:* Classification—There are four principal divisions called Parts; each Part is divided into Subjects; Subjects into Divisions; Divisions into Titles; and Titles into Chapters. Chapters are sometimes subdivided. Each separate act has its own number, beginning at No. 1 and continuing in consecutive order to No. 1329. Partial or half numbers are occasionally inserted to provide a better arrangement or classification of subjects. Each number is subdivided into sections, the sign § being used arbitrarily in contradistinction from “section” or “sec.” as used in the law.

*Third:* Acts relating to the same subject are classified, as near as may be, under one head and in chronological order so as to present a general and orderly history of the changes of the law.

*Fourth:* Each act is given *verbatim et literatim* as it appears in the *printed* statutes. A careful comparison has, however, been made with the original laws and to save confusion a table, showing the errors or differences in the printed statutes, is given at the end of this volume. The originals of the laws of Oregon contained in this work cannot be found in the archives, and are supposed to have been destroyed by fire. The only record of such laws is in the printed volumes.

*Fifth:* All side heads in black letters are inserted by the compiler and are no part of the law.

*Sixth:* All sections or parts of sections of each and every act which do not relate directly or indirectly to the subject of the title to real property are stricken out and omitted. When a *part* of a *section* is omitted, the ellipsis is indicated by three asterisks, thus:  
\* \* \* If a *full section* or more than a section is omitted, it is indicated by a *full line* of asterisks.

*Seventh:* The enacting clause when it reads thus: “Be it enacted by the Legislative Committee of Oregon Territory;” or “- by the House of Representatives of Oregon Territory;” or “- by the Council and House of Representatives of Oregon Territory;” or “- by the Legislature of Oregon Territory;” or “- by the Legisla-

tive Assembly of the Territory of Oregon;" or "- by the Legislative Assembly of the Territory of Washington;" or "- by the United States of America in Congress Assembled" is always abbreviated thus: "Be it enacted, etc." In other cases it is given in full. If no enacting clause appears in the act, that fact is so stated in a foot note.

*Eighth:* The repealing clause, when in substantially this form, "That all laws (or acts) and parts of laws (or acts) in conflict (or inconsistent) with the provisions of this law (or act) be and the same are hereby repealed," is, except in a few cases, inserted as a foot note, care being taken to conform the note as near as possible to the language of the clause. In other cases the clause is given in full. If no such clause appears in the body of the act and no reference in a foot note is made to one, there is none.

*Ninth:* The date of passage or approval is always given in a foot note. If the act was not approved, that fact may be determined by the language of the foot note, the word "passed" being invariably used when there is no approval. None of the laws previous to 1865 were approved by the governor. The act requiring this to be done was enacted by congress June 17, 1864.\* Nearly all laws except those of 1854 appear to have been signed by the officers of both houses, as required by law.

*Tenth:* When the act takes effect at date of passage or approval, the provision to that effect, except in a few cases, is omitted from the body of the act, and stated in a foot note thus: "In effect from date." In case the act provides that it shall take effect at a future date, the provision to that effect is given in full. If it does not state when it shall take effect, no reference whatever is made to the subject.

*Eleventh:* Persons familiar with the history of Territorial legislation are aware that many of the laws, especially "probate acts," "practice acts," etc., etc., were often reënacted with the change only of a few words, not as amendments, but as new enactments. In cases where this has occurred, and the changes are slight, the new enactment is given by reference to the previous act, and the changes, if any, are indicated in as convenient a manner as possible. Take, for example, No. 342, at page 269, entitled, "An act relating to deeds." The text of the act is omitted, and in its place

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\* See U. S. R. S., 1878, sec. 1842.

is a foot note stating that "This No. is *verbatim* as No. 341, *supra*, except § 2 of said No. at <sup>2</sup> after the words 'notary public' read 'or county auditor.' " Refer now to the opposite page and find No. 341; find § 2; find the reference mark <sup>2</sup> at the end of § 2 and you will see the words "notary public," after which read "or county auditor." This method of reference will, it is hoped, prove of considerable advantage to the active practitioner, as it will show at a glance what changes have taken place in the law from time to time without the trouble of a comparison. Where the changes are so numerous as to render reference in this manner impossible or confusing the new enactment is given entire.

The compiler is indebted to numerous friends for valuable suggestions and data. He is particularly indebted to Hon. Henry H. Gilfry, of Washington, D. C., Hon. Stephen Judson, of Steilacoom, Wash., and Hon. W. C. Sharpstein, of Tacoma, Wash. It is hoped that this work will bear the test of critical examination, without which it will be of little value, and that it will serve to lighten the labor of the active practitioner and render titles more secure, or, at least, less hazardous.

TACOMA, WASH., December, 1892.



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## INTRODUCTION.

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On October 21, 1803, the treaty between the United States and France for the cession of Louisiana,<sup>1</sup> commonly known as the "Louisiana purchase," was ratified and proclaimed. Though it does not conclusively appear from this treaty, this cession is believed to have included within its boundaries the territory afterward known as "Oregon."

On July 5, 1843, the people of Oregon, through their "legislative committee," passed a law for the establishment of a "provisional government,"<sup>2</sup> which was, in effect, an independent government. Its authority assumed to extend over all that territory lying between the parallel of forty-two degrees on the south, and the parallel of fifty-four degrees and forty minutes on the north, the Rocky Mountains on the east and the Pacific Ocean on the west.

On July 17, 1846, the treaty between the United States and Great Britain,<sup>3</sup> for the settlement of the northwest boundary, was ratified, whereby the forty-ninth parallel of north latitude westward "to the middle of the channel which separates the continent from Vancouver's Island, and thence southernly through the middle of said channel, and of Fuca's Straits to the Pacific Ocean," became the northwest boundary of the United States and consequently of Oregon.

On August 14, 1848, the act of congress entitled "An act to establish the Territorial government of Oregon"<sup>4</sup> was approved, and by

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<sup>1</sup> See *infra*, p. 5.

<sup>2</sup> The Oregon Statutes of 1850-51 give the year of the adoption of this act as 1845 (see *infra*, p. 15), though history generally agrees on 1843 as the correct date. In keeping, however, with the plan of this work, the statute date is followed.

<sup>3</sup> See *infra*, p. 7.

<sup>4</sup> See *infra*, p. 17.

this act the "Ordinance for the government of the territory of the United States northwest of the River Ohio," commonly known as the "ordinance of 1787," together with the general laws of the United States, was extended over the country lying "west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude;" and the laws of the provisional government of Oregon were declared "valid and operative therein, so far as the same may be not incompatible with the constitution of the United States and the principles and provisions of this act; subject, nevertheless, to be altered, modified or repealed by the legislative assembly of the Territory of Oregon, but all laws heretofore passed in said Territory making grants of land or otherwise affecting or incumbering the title to lands shall be and are hereby declared to be null and void."

On September 27, 1850, the act of congress entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands," commonly known as the "donation act,"<sup>5</sup> was approved, whereby the public lands in Oregon Territory became susceptible of private ownership.

On March 2, 1853, the act of congress entitled "An act to establish the Territorial government of Washington,"<sup>6</sup> was approved, whereby "all that portion of Oregon Territory lying and being south of the forty-ninth degree of north latitude, and north of the middle of the main channel of the Columbia river, from its mouth to where the forty-sixth degree of north latitude crosses said river, near Fort Walla Walla, thence with said forty-sixth degree of latitude to the summit of the Rocky Mountains," was organized into a separate government.

On March 3, 1863, the act of congress entitled "An act to provide a temporary government for the Territory of Idaho,"<sup>7</sup> was approved and the western boundary of the Territory of Washington

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<sup>5</sup> See *infra*, p. 1099, *et seq.*

<sup>6</sup> See *infra*, p. 123, *et seq.*

<sup>7</sup> See 12 U. S. Stat., p. 808.

was thereby made to begin "at a point opposite the mouth of the Kooskooskia or Clear Water river" and run "thence due north to the forty-ninth parallel of north latitude."

On June 17, 1871, a treaty between the United States and Great Britain<sup>8</sup> was ratified, providing that the question arising under the treaty of 1846, as to what is "the channel which separates the continent from Vancouver's Island," should be submitted to the arbitration of the Emperor of Germany.

On October 21, 1872, the emperor made his award,<sup>9</sup> which was to the effect that "most in accordance with the true interpretation of" said treaty "is the claim of the government of the United States, that the boundary line between the territories of Her Britannic Majesty and the United States should be drawn through the Haro channel."

On February 22, 1889, the act of congress entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public land to such states,"<sup>10</sup> commonly known as the "enabling act," was approved.

On November 11, 1889, a convention having been held and a constitution<sup>11</sup> adopted by the people, in accordance with the "enabling act," the president issued a proclamation<sup>12</sup> declaring that the "Territory of Washington" had ceased to exist and that the "State of Washington" had risen in its stead.

The foregoing acts, treaties and proclamation may be said to mark and define distinct epochs in the history of this commonwealth. This history, in all its details, though comparatively recent, is ex-

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<sup>8</sup> See *infra*, p. 8.

<sup>9</sup> See *infra*, p. 10.

<sup>10</sup> See *infra*, p. 1065, *et seq.*

<sup>11</sup> See *infra*, p. 1071, *et seq.*

<sup>12</sup> See *infra*, p. 1084, *et seq.*

ceedingly interesting and instructive. We shall refer briefly to that part of it which relates to the making of the laws, and particularly to such laws as govern or affect the title to real property.

The first effort towards organized government in what is commonly known as "the Northwest," was a meeting of the settlers of Oregon, held February 2, 1843, ostensibly to take into consideration the propriety of adopting measures for the protection of their cattle and other live stock from the ravages of wild animals, which abounded and were very destructive. The real object, however, was to organize a government for civil and military protection, and to ultimately secure the protection of the laws of the United States. The Hudson Bay Company, which had long occupied the country, under a grant from the British crown, for the purpose of trading with the natives, had begun to assume powers of civil government, and the American settlers were anxious to rid themselves of the dangers of its influence upon their political destiny.

A second meeting was held on the first Monday of March, 1843, at which a committee of twelve persons was appointed to devise a plan for carrying out the object in view. On May 2, 1843, at the call of the committee, the people met at Willamette Falls and proceeded to organize a government by the selection of a supreme judge, with probate powers, a clerk of court, or recorder, a sheriff, etc. A committee of nine persons,<sup>13</sup> thereafter known as the "legislative committee of Oregon," was also chosen "for the purpose of drafting a code of laws for the government of this community, to be presented to a public meeting to be hereafter called by them for acceptance."<sup>14</sup>

A meeting was held July 5, 1843, at which time the articles known as the law for the provisional government were adopted and afterwards ratified by the people, together with other laws<sup>15</sup> necessary

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<sup>13</sup> This committee is said to have been composed of the following named persons: Robert Moore, David Hill, Robert Shortess, Alanson Beers, W. H. Gray, Thomas J. Hubbard, James A. O'Neil, Robert Newell, William Dougherty.

<sup>14</sup> See the *History of Oregon*, by W. H. Gray, 1870, p. 280.

<sup>15</sup> No. 12, p. 21, *infra*; No. 21, p. 26; No. 23, p. 28; No. 40, p. 45; No. 41, p. 46; No. 43, p. 47; No. 51, p. 52, are the only laws, within the scope of this book, that were enacted by the committee.

to meet the wants and needs of the time. The "legislative committee" remained the law-making power for a period of more than four and one-half years, when, somewhat reluctantly, though very much to the relief of the people, congress erected Oregon into a territory, the limits of which, at that time, comprised nearly all of the region now embraced within the boundaries of the States of Oregon, Washington and Idaho. Thus died the "provisional government," which had performed well the part assigned to it in the history of nations. To the bravery, foresight and energy of its founders more, perhaps, than to any other fact, it is due that Washington is to-day one of the United States of America, instead of a colony of the British Crown.

The laws relating to real property within the limits of the Territory of Washington may be classified as follows:

*First:* Direct or specific, such as the donation laws; laws relative to dower and curtesy, the community property laws, etc.

*Second:* Indirect or general, such as the "practice acts" and "probate acts;" laws relative to courts, corporations, marriage, divorce, revenue, etc.

By far the largest part of these laws are of the second class and only remotely affect the title to real property. A brief glance at the character of the early legislation on this subject will prove interesting.

Among the laws enacted by the legislative committee of Oregon was the following:

"All the statute laws of Iowa Territory passed at the first session of the legislative assembly of said Territory, and not of a local character and not incompatible with the condition and circumstances of this country, shall be the law of this government, unless otherwise modified; and the common law of England and principles of equity not modified by the statutes of Iowa, or of this government, and not incompatible with its principles, shall constitute a part of the law of this land."<sup>16</sup>

This wholesale and indefinite legislation was, on September 29,

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<sup>16</sup> See *infra*, p. 28, No. 23, § 5.

1849, somewhat improved upon by the legislative assembly of the new Territory, not so much in that it was less wholesale, but more definite. It enacted:

“That the revised laws of Iowa of 1848, herein entitled, as hereinafter amended, be and they are hereby adopted as the laws of this Territory.”<sup>17</sup>

Then follows a list of the acts thus adopted, by reference to the title and page in the volume where they may be found. These two provisions constitute the largest part of the legislation prior to the passage of the act to establish the Territory of Washington. By that act the laws of Oregon, then in force, were continued in force in the new Territory “until they shall be amended or repealed by future legislation.” It was not until January 31, 1856, that the legislative assembly of Washington passed an act<sup>18</sup> declaring that “all laws heretofore in force in this Territory by virtue of any legislation in the Territory of Oregon, be and the same are hereby repealed.” It may be doubted whether this was such “future legislation” as was contemplated by the act of congress, since that act also provided “that the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States. \* \* \* And all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void.”<sup>19</sup> It, however, provided further that “all the laws passed by the legislative assembly shall be submitted to the congress of the United States, and, if disapproved, shall be null and of no effect.”<sup>20</sup> Whether the act of the legislative assembly was within the contemplation of the words “future legislation;” if not, whether the failure of congress to disapprove an act in itself “utterly null and void,” and not merely voidable, is to be construed as a ratification thereof, are questions not yet judicially determined.

The laws of the “provisional government,” relative to “land claims,” allowed every person who should make permanent improve-

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<sup>17</sup> See *infra*, p. 26, No. 21, § 1.

<sup>18</sup> See *infra*, p. 126, No. 116.

<sup>19</sup> See *infra*, p. 123, No. 114, § 2.

<sup>20</sup> See *ibid.*

ments thereon, with *bona fide* intention of holding the same for himself, to take and hold six hundred and forty acres.<sup>21</sup> It is probable that the "donation law" subsequently enacted by congress was the outgrowth of this effort. This law made possible the private ownership of the public domain. Until its passage the only rights in the soil were those of occupancy or possession. In brief, the provisions were that any settler, possessing certain qualifications and conforming to certain rules, should have the right, if a single man, to take three hundred and twenty acres of land, or, if a married man, to take six hundred and forty acres, "one-half to himself and the other half to his wife, to be held by her in her own right;" and that upon proof of the residence and cultivation required, should receive patents therefor.<sup>22</sup> Like donations in one-half the quantity were also offered to certain immigrants. The benefits of this law prevailed from September, 1850, to December, 1855, having been extended in 1853,<sup>23</sup> and under it a very large number of claims were located. It is a fact that the principal cities of the State are situated upon these claims. This law, therefore, in some respects is, and must remain, one of the most important ever enacted.

Dower was early recognized by statute. In 1844, by virtue of the adoption of the laws of Iowa of 1839, it was enacted that "every devise of land or any estate therein \* \* \* to the wife of the testator shall be a bar of her dower in lands."<sup>24</sup> In 1849 the legislative assembly of Oregon enacted "that every person of twenty-one years of age and upwards, of sound mind, may, by last will, devise all his estate, real, personal and mixed, saving to the widow her dower."<sup>25</sup> This provision was reenacted by the first legislature of Washington Territory in 1854<sup>26</sup> and again in 1860,<sup>27</sup> with

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<sup>21</sup> See *infra*, p. 46, No. 41, § 1.

<sup>22</sup> See *infra*, p. 1099, No. 1278, §§ 3, 4, 6.

<sup>23</sup> See *infra*, p. 1103, No. 1280, § 3.

<sup>24</sup> See *infra*, p. 90, No. 94, § 13.

<sup>25</sup> See *infra*, p. 60, No. 61, § 1.

<sup>26</sup> See *infra*, p. 381, No. 521, § 1.

<sup>27</sup> See *infra*, p. 385, No. 582, § 2.

the exception of the last clause, which was made to read as follows: "This section shall not be construed as depriving the widow of her dower, nor the husband of his interest as tenant by the curtesy." Until the act of 1864, entitled "An act relative to estates in dower and by the curtesy,"<sup>28</sup> the common law defined and controlled these interests. Dower and curtesy were not formally abolished,<sup>29</sup> except by inference, until 1871. In 1887 congress passed an act<sup>30</sup> which has had the effect of raising the question whether dower was thereby reestablished. The act is commonly known as the "Edmunds-Tucker act." The supreme courts of Wyoming and Montana have held adversely as to this question, the former, by whom it was exhaustively and ably considered, held that that part of the act relative to dower applied only to Utah, while the latter, briefly considering it, held that it applied to all the territories alike. The former is probably the correct view, but as each court is of equal jurisdiction, and as no higher court has passed upon it, the question is still an open one.

In 1869, the act entitled "An act defining the rights of husband and wife," commonly known as the "community property act,"<sup>31</sup> was passed. This was succeeded, in 1871, by the "Act defining the rights of persons and property as affected by marriage,"<sup>32</sup> and this was repealed in 1873.<sup>33</sup> Nine days afterward the act of 1869 was reenacted;<sup>34</sup> and this was succeeded in 1879 by "An act relating to and defining the property rights of husband and wife."<sup>35</sup> This was radically changed in 1881,<sup>36</sup> and materially amended in 1888.<sup>37</sup>

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<sup>28</sup> See *infra*, p. 468, No. 622.

<sup>29</sup> See *infra*, p. 474, No. 624, § 23.

<sup>30</sup> See *infra*, p. 1140, No. 1318, § 4.

<sup>31</sup> See *infra*, p. 471, No. 623.

<sup>32</sup> See *infra*, p. 474, No. 624.

<sup>33</sup> See *infra*, p. 478, No. 625.

<sup>34</sup> See *ibid*, No. 626.

<sup>35</sup> See *infra*, p. 479, No. 628.

<sup>36</sup> See *infra*, p. 482, No. 629.

<sup>37</sup> See *infra*, p. 485, No. 630.



Statutes relative to conveyances were very numerous. What shall constitute a deed or mortgage, who shall execute and how shall be executed, who authorized to take and what the substance of acknowledgments, how to be recorded or how released, etc., is provided for in more than one hundred separate enactments. It is difficult to study this mass of legislation relative to the formalities of matters so closely affecting the interest of almost every citizen, without being impressed with the belief that a much simpler method of evidencing, preserving and protecting these interests could be devised. Formalities, slight in themselves, yet far-reaching in their consequences, might, it seems, be easily avoided, and a plan adopted within the comprehension of the humblest member of the community, which would effectually preserve and protect these rights. A reform in this respect is demanded by the spirit of the age. The present method of transfer, though doubtless a great improvement over the old plan of accompanying each conveyance with a delivery of the title deeds, is cumbersome, vexatious and full of pitfalls. The system of registration known as the Torrens or Australian system is a long step in the right direction. When once adapted to our conditions and circumstances it will doubtless prove economical, safe and perfectly practical. Though it is generally supposed to be of recent origin a similar system has been in use in several European states for upwards of a century; in one, for nearly six centuries. It is therefore sanctioned by that best of all teachers, experience. The wonder is that the present cumbersome, unsafe and expensive methods have so long held ground, as against the beneficent and progressive features of this great reform.

The statute books are covered with special legislation. Notwithstanding the fact that general laws for these purposes existed during most of the time, there were more than one hundred special acts incorporating private corporations; nearly four score granting divorce, and two score changing the names of persons, whereby the right to receive, hold and dispose of real property was indirectly affected and often formally enlarged or abridged. For example,

several minors were authorized to act as if of full age. In fact, special powers were bestowed so freely that congress, in 1886, somewhat tardily, enacted a law applicable to all the territories, whereby special legislation, not on all subjects, but on a large number of enumerated subjects, was prohibited.

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## PART I.

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# GOVERNMENT AND BOUNDARIES.

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## SUBJECT I.

### **No. 1.—AN ORDINANCE FOR THE GOVERNMENT OF THE TERRITORY OF THE UNITED STATES NORTHWEST OF THE RIVER OHIO.<sup>1</sup>**

§ 1. **Districts.**—SECTION 1. *Be it ordained by the United States in Congress assembled,* That the said territory, for the purpose of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

§ 2. **Estates of Intestates—Descent—Dower—Wills.**—SEC. 2. *Be it ordained by the authority aforesaid,* That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law, relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age), and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts and registers shall be appointed for that purpose. \* \* \*

\* \* \* \* \*

§ 3. **Declaration of Compact.**—SEC. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

\* \* \* \* \*

#### ARTICLE III.

§ 4. **Religion, etc.—Rights of Indians.**—Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands

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<sup>1</sup> See U. S. Rev. Stat. 1878, p. 18.

and property shall never be taken from them without their consent; and in their property, rights and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

**§ 5. Territory Made Part of Confederacy—Taxes—Primary Disposal of Soil.**—The said Territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made, and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said Territory shall be subject to pay a part of the federal debts contracted, or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. \* \* \* Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the twelfth.

## SUBJECT II.

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### No. 2.—TREATY FOR THE CESSION OF LOUISIANA TO THE UNITED STATES.<sup>1</sup>

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#### ARTICLE I.

§ 1. **Retrocession from Spain to France.**—WHEREAS, By the article the third of the treaty concluded at St. Idelfonso, the 9th Vendemiaire, an 9 (1st October, 1800), between the First Consul of the French Republic and His Catholic Majesty, it was agreed as follows: "His Catholic Majesty promises and engages on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to His Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States;" and

WHEREAS, In pursuance of the treaty, and particularly of the third article, the French Republic has an incontestible title to the domain and to the possession of the said territory; the First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, forever and in full sovereignty, the said territory, with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic, in virtue of the above mentioned treaty, concluded with His Catholic Majesty.

#### ARTICLE II.

§ 2. **Subjects of Cession.**—In the cession made by the preceding article are included the adjacent islands belonging to Louisiana, all public lots and squares, vacant lands, and all public buildings, fortifications, barracks and other edifices, which are not private property. The archives, papers and documents, relative to the domain and sovereignty of Louisiana and its dependences, will be left in the possession of the commissaries of the United States, and copies will be afterwards given in due form to the magistrates and municipal officers of such of the said papers and documents as may be necessary to them.

#### ARTICLE III.

§ 3. **Inhabitants.**—The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property and the religion which they profess.

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<sup>1</sup>Concluded April 30, 1803; ratifications exchanged at Washington, October 21, 1803; proclaimed October 21, 1803. (See "Treaties and Conventions," published by U. S. Govt., 1889, p. 331.)

## ARTICLE V.

§ 4. **United States to Take Possession.**—Immediately after the ratification of the present treaty by the President of the United States, and in case that of the First Consul shall have been previously obtained, the Commissary of the French Republic shall remit all military posts of New Orleans, and other parts of the ceded territory, to the Commissary or Commissaries named by the President to take possession; the troops, whether of France or Spain, who may be there shall cease to occupy any military post from the time of taking possession, and shall be embarked as soon as possible, in the course of three months after the ratification of this treaty.

## ARTICLE VI.

§ 5. **Indian Treaties.**—The United States promise to execute such treaties and articles as may have been agreed between Spain and the tribes and nations of the Indians until, by mutual consent of the United States and the said tribes or nations, other suitable articles shall have been agreed upon.

\*            \*            \*            \*            \*            \*

## ARTICLE IX.

§ 6. **How Ratified; Other Conventions.**—The particular convention signed this day by the respective ministers, having for its object to provide for the payment of debts due to the citizens of the United States by the French Republic prior to the 30th Sept., 1800 (8th Vendemiaire, an 9), is approved, and to have its execution in the same manner as if it had been inserted in this present treaty; and it shall be ratified in the same form and in the same time, so that the one shall not be ratified distinct from the other. Another particular convention signed at the same date as the present treaty relative to a definitive rule between the contracting parties is in the like manner approved, and will be ratified in the same form, and in the same time, and jointly.

## ARTICLE X.

§ 7. **Ratifications.**—The present treaty shall be ratified in good and due form, and the ratifications shall be exchanged in the space of six months after the date of the signature by the Ministers Plenipotentiary, or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed these articles in the French and English languages; declaring, nevertheless, that the present treaty was originally agreed to in the French language; and have thereunto affixed their seals.

Done at Paris this tenth day of Floreal, in the eleventh year of the French Republic, and the 30th of April, 1803.



## SUBJECT III.

### No. 3.—TREATY IN REGARD TO LIMITS WESTWARD OF THE ROCKY MOUNTAINS.<sup>1</sup>

\* \* \* \* \*

#### ARTICLE I.

§ 1. **Boundaries Defined.**—From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean. \* \* \*

\* \* \* \* \*

#### ARTICLE III.

§ 2. **Rights of British Subjects.**—In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

#### ARTICLE IV.

§ 3. **Puget's Sound Agricultural Company's Lands.**—The farms, lands and other property of every description belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia river, shall be confirmed to the said company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States government should signify a desire to obtain possession of the whole, or of any part thereof, the property so required shall be transferred to the said government, at a proper valuation, to be agreed upon between the parties.

#### ARTICLE V.

§ 4. **Ratifications.**—The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at London at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

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<sup>1</sup>Concluded June 15, 1846; ratifications exchanged at London, July 17, 1846; proclaimed August 5, 1846. (See "Treaties and Conventions," published by U. S. Govt., 1889, p. 438.)

## SUBJECT IV.

**NO. 4.—TREATY RELATIVE TO CLAIMS, FISHERIES, NAVIGATION OF THE  
ST. LAWRENCE, ETC.; AMERICAN LUMBER OF THE RIVER ST. JOHN;  
BOUNDARY.<sup>1</sup>**

\* \* \* \* \*

ARTICLE XXXIV.

**§ 1. Northwest Boundary Referred to Emperor of Germany for Arbitration.**—WHEREAS, It was stipulated by article I of the treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, that the line of boundary between the territories of the United States and those of Her Britannic Majesty, from the point of the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude “to the middle of the channel which separates the continent from Vancouver’s Island, and thence southernly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean;” and

WHEREAS, The commissioners appointed by the two high contracting parties to determine that portion of the boundary which runs southernly through the middle of the channel aforesaid, were unable to agree upon the same; and

WHEREAS, The Government of Her Britannic Majesty claims that such boundary line should, under the terms of the treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of the United States and of the Government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above mentioned article of the said treaty, shall decide thereupon finally and without appeal, which of those claims is most in accordance with the true interpretation of the treaty of June 15, 1846.

ARTICLE XXXV.

**§ 2. Emperor’s Award Final.**—The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive, and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing, and dated; it shall be in whatsoever form His Majesty may choose to adopt; it shall be delivered to the representatives or other public agents of the United States and of Great Britain, respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ARTICLE XXXVI.

**§ 3. How to be Submitted.**—The written or printed case of each of the two parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this

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<sup>1</sup> Concluded May 8, 1871; ratifications exchanged at London, June 17, 1871; proclaimed July 4, 1871. (See “Treaties and Conventions,” published by U. S. Govt., 1889, page 478.)

treaty, and a copy of such case and evidence shall be communicated by each party to the other, through their respective representatives at Berlin. The high contracting parties may include in the evidence to be considered by the arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases. After the written or printed case shall have been communicated by each party to the other, each party shall have the power of drawing up and laying before the arbitrator a second and definitive statement, if it think fit to do so, in reply to the case of the other party so communicated, which definitive statement shall be so laid before the arbitrator, and also be mutually communicated in the same manner as aforesaid, by each party to the other, within six months from the date of laying the first statement of the case before the arbitrator.

\* \* \* \* \*

ARTICLE XLIII.

§ 4. **Ratifications.**—The present treaty shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by her Britannic Majesty; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Washington, the eighth day of May, in the year of our Lord one thousand eight hundred and seventy-one.

## SUBJECT V.

**No. 5.—AWARD OF THE EMPEROR OF GERMANY UNDER THE XXXIVTH ARTICLE OF THE TREATY OF MAY 8, 1871, GIVING THE ISLAND OF SAN JUAN TO THE UNITED STATES.<sup>1</sup>**

[Translation.]

We, William, by the grace of God, German Emperor, King of Prussia, etc., etc., etc.

§ 1. **Preliminary Statement.**—After examination of the treaty concluded at Washington on the 6th<sup>2</sup> of May, 1871, between the Governments of Her Britannic Majesty and of the United States of America, according to which the said governments have submitted to our arbitrament the question at issue between them, whether the boundary line which, according to the treaty of Washington of June 15, 1846, after being carried westward along the forty-ninth parallel of northern latitude to the middle of the channel which separates the continent from Vancouver's Island, is thence to be drawn southernly through the middle of the said channel and of the Fuca Straits to the Pacific Ocean, should be drawn through the Rosario Channel, as the Government of Her Britannic Majesty claims, or through the Haro Channel, as the Government of the United States claims; to the end that we may finally and without appeal decide which of these claims is most in accordance with the true interpretation of the treaty of June 15, 1846.

§ 2. After hearing the report made to us by the experts and jurists summoned by us upon the contents of the interchanged memorials and their appendices, have decreed the following award:

§ 3. **Award.**—Most in accordance with the true interpretations of the treaty concluded on the 15th of June, 1846, between the Governments of Her Britannic Majesty and of the United States of America, is the claim of the Government of the United States, that the boundary line between the territories of Her Britannic Majesty and the United States should be drawn through the Haro Channel.

Authenticated by our autographic signature and the impression of the imperial great seal.

Given at Berlin, October the 21st, 1872.

WILLIAM.

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<sup>1</sup> See "Treaties and Conventions," published by U. S. Govt., 1889, page 494. (See also No. 4, *supra*.)

<sup>2</sup> So in original. Date of treaty is, however, May 8th.

## SUBJECT VI.

### **No. 6.—PROTOCOL OF A CONFERENCE AT WASHINGTON, MARCH 10, 1873, RESPECTING THE NORTHWEST WATER BOUNDARY.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, It was provided by the first article of the treaty between the United States of America and Great Britain, signed at Washington on the 15th of June, 1846, as follows: \* \* \*<sup>2</sup> and

WHEREAS, It was provided by the XXXIVth article of the treaty between the United States of America and Great Britain, signed at Washington on the 8th of May, 1871, as follows: \* \* \*<sup>3</sup> and

WHEREAS, His Majesty the Emperor of Germany has, by his award dated the 21st of October, 1872, decided that \* \* \*<sup>4</sup> The undersigned, Hamilton Fish, Secretary of State of the United States, and the Right Honorable Sir Edward Thornton, one of Her Majesty's Most Honorable Privy Council, Knight Commander of the Most Honorable Order of the Bath, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and Rear Admiral James Charles Prevost, Commissioner of Her Britannic Majesty in respect of the boundary aforesaid, duly authorized by their respective governments to trace out and mark on charts prepared for that purpose, the line of boundary in conformity with the award of His Majesty the Emperor of Germany, and to complete the determination of so much of the boundary line between the territory of the United States and the possessions of Great Britain as was left uncompleted by the commissioners heretofore appointed to carry into effect the first article of the treaty of 15th June, 1846, have met together at Washington, and have traced out and marked the said boundary line on four charts, severally entitled: "North America, West Coast, Strait of Juan de Fuca and the channels between the continent and Vancouver Id., showing the boundary line between British and American possessions, from the admiralty surveys by Captains H. Kellett, R. N., 1847, and G. H. Richards, R. N., 1858-1862," and having on examination agreed that the lines so traced out and marked on the respective charts are identical, they have severally signed the said charts on behalf of their respective governments, two copies thereof to be retained by the government of the United States, and two copies thereof to be retained by the government of Her Britannic Majesty, to serve with the "definition of the boundary line," attached hereto, showing the general bearings of the line of boundary as laid down on the charts, as a perpetual record of agreement between the two governments in the matter of the line of boundary between their respective dominions under the first article of the treaty concluded at Washington on the 15th of June, 1846.

In witness whereof, the undersigned have signed this protocol, and have hereunto affixed their seals.

Done in duplicate at Washington, this tenth day of March, in the year 1873.

<sup>1</sup> See "Treaties and Conventions," published by U. S. Govt., 1889, p. 495.

<sup>2</sup> See No. 3, Art. I.

<sup>3</sup> See No. 3, Art. XXXVI.

<sup>4</sup> See No. 5.

§ 2. **Definition of Boundary Line.**—The chart upon which the boundary line between the British and United States possessions is laid down, is entitled “North America, West Coast, Strait of Juan de Fuca and the channels between the continent and Vancouver Id., showing the boundary line between the British and American possessions, from the admiralty surveys by Captains H. Kellett, R. N., 1847, and G. H. Richards, R. N., 1858–1862.”

\* \* \* \* \*

§ 3. The boundary line thus defined commences at the point on the 49th parallel of north latitude on the west side of Point Roberts, which is marked by a stone monument, and the line is continued along the said parallel to the middle of the channel which separates the continent from Vancouver Island; that is to say, to a point in longitude  $123^{\circ} 19' 15''$  W., as shown in the said chart. It then proceeds in a direction about S.  $50^{\circ}$  E. (true) for about fifteen geographical miles, when it curves to the southward, passing equidistant between the west point of Patos Island and the east point of Saturna Island, until the point midway on a line drawn between Turnpoint on Stewart Island and Fairfax Point on Morseby Island bears S.  $68^{\circ}$  W. (true), distant ten miles; then on a course S.  $68^{\circ}$  W. (true) ten miles to the said point midway between Turnpoint on Stewart Island and Fairfax Point on Morseby Island; thence on a course about S.  $12^{\circ} 30'$  E. (true) for about eight and three-quarter miles to a point due east one mile from the northermost Kelp reef, which reef on the said chart is laid down as in latitude  $48^{\circ} 33'$  N. and in longitude  $123^{\circ} 15'$  W., then its direction continues about S.  $20^{\circ} 15'$  E. (true) six and one-eighth miles to a point midway between Sea Bird Point on Discovery Island and Pile Point on San Juan Island; thence in a straight line S.  $45^{\circ}$  E. (true) until it touches the north end of the middle bank in between thirteen and eighteen fathoms of water; from this point the line takes a general S.  $28^{\circ} 30'$  W. direction (true) for about ten miles, when it reaches the center of the fairway of the Strait of Juan de Fuca, which by the chart is in the latitude of  $48^{\circ} 17'$  N. and longitude  $123^{\circ} 14' 40''$  W. Thence the line runs in a direction S.  $73^{\circ}$  W. (true) for twelve miles to a point on a straight line drawn from the lighthouse on Race Island to Angelos Point midway between the same. Thence the line runs through the center of the Strait of Juan de Fuca: *First*, in a direction N.  $80^{\circ} 30'$  W. about five and three-quarter miles to a point equidistant on a straight line between Beechey Head on Vancouver Island and Tongue Point on the shore of Washington Territory; *second*, in a direction N.  $76^{\circ}$  W. about thirteen and one-half miles to a point equidistant in a straight line between Sherringham Point on Vancouver Island and Pillar Point on the shore of Washington Territory; *third*, in a direction N.  $68^{\circ}$  W. about thirty and three-quarter miles to the Pacific Ocean at a point equidistant between Bonilla Point on Vancouver Island and Tatooch Island lighthouse on the American shore—the line between the points being nearly due north and south (true).

§ 4. The courses and distances as given in the foregoing description are not assumed to be perfectly accurate, but are as nearly so as is supposed to be necessary to a practical definition of the line laid down on the chart and intended to be the boundary line.

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PART II.

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TERRITORY OF OREGON.

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# SUBJECT I.

## No. 7.—LAW FOR PROVISIONAL GOVERNMENT OF OREGON.<sup>1</sup>

§ 1. **Preamble.**—We, the people of Oregon Territory, for purposes of mutual protection, and to secure peace and prosperity among ourselves, agree to adopt the following laws and regulations, until such time as the United States of America extend their jurisdiction over us:

§ 2. **Districts.**—*Be it enacted, therefore, by the free citizens of Oregon Territory,* That the said Territory, for purposes of temporary government, be divided into not less than three nor more than five districts, subject to be extended to a greater number when an increase of population shall require.

§ 3. **Purpose.**—For the purpose of fixing the principles of civil and religious liberty as the basis of all laws and constitutions of government that may hereafter be adopted.

§ 4. **Compact Declared.**—*Be it enacted,* That the following articles be considered articles of compact among the free citizens of this Territory.

### ARTICLE I.

§ 5. **Private Contracts, etc., Upheld.**—SEC. 2. \* \* \* In the just preservation of rights and property, it is understood and declared that no law ought ever to be made, or have force in said Territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements, *bona fide*, and without fraud previously formed.

§ 6. **Religion, etc.—Rights of Indians.**—SEC. 3. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by the representatives of the people; but laws founded in justice and humanity shall from time to time be made, for preventing injustice being done to them, and for preserving peace and friendship with them.

\* \* \* \* \*

§ 7. **Departments of Government.**—SEC. 6. The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial. \* \* \*

### ARTICLE II.

§ 8. **Legislative.**—SECTION 1. The legislative power shall be vested in a House of Representatives. \* \* \*

\* \* \* \* \*

§ 9. **Executive.**—SEC. 7. The executive power shall be [in]vested in one person. \* \* \*

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<sup>1</sup>Passed July 5, 1845; adopted July 26, 1845. (See Laws Or. Ter., Sess. 1850-51, p. 28.)

§ 10. **Judicial.**—SEC. 8. The judicial power shall be vested in a supreme court and such inferior courts of law, equity and arbitration as may by law from time to time be established. \* \* \* The supreme court shall have power to decide upon and amend any laws contrary to the provisions of these articles of compact. \* \* \*

\* \* \* \* \*

#### ARTICLE III.

§ 11. **Land Claim—Rights of Possession.**—SECTION 1. Any person now holding or hereafter wishing to establish a claim to land in this Territory shall designate the extent of his claim by natural boundaries, or by marks at the corners and upon the lines of such claim, and have the extent and boundaries of said claim recorded in the office of the territorial recorder, in a book to be kept by him for that purpose, within twenty days from the time of making said claim: *Provided*, That those who shall be already in possession of land shall be allowed twelve months from the passage of this act to file a description of his claim in the recorder's office: *And provided further*, That the said claimant shall state in his record the size, shape and locality of such claim, and give the names of the adjoining claimants, and the recorder may require the applicant for such record to be made to answer, on his oath, touching the facts.

§ 12. **Same—Improvements and Residence—How Held While Unoccupied—Non-residents.**—SEC. 2. All claimants shall, within six months from the time of recording their claims, make permanent improvements upon the same by building or enclosing, and also become an occupant upon said claim within one year from the date of such record, or in case not occupied, the person holding said claim shall pay into the treasury the sum of five dollars annually, and in case of failure to occupy, or on failure of payment of the sum above stated, the claim shall be considered as abandoned: *Provided*, That no non-resident of this Territory shall have the benefit of this law: *And provided further*, That any resident of this Territory, absent on his private business for two years, may hold his claim by paying five dollars annually to the treasury.

§ 13. **Same—Size of.**—SEC. 3. No individual shall be allowed to hold a claim of more than one square mile, or six hundred and forty acres, in a square or oblong form, according to the natural situation of the premises. Nor shall any individual be allowed to hold more than one claim at the same time. Any person complying with the provisions of these ordinances shall be entitled to the same recourse against trespass as in other cases by law provided.

§ 14. **Same—Partnerships May Take.**—SEC. 4. Partnerships of two or more persons shall be allowed to take up a tract of land not exceeding six hundred and forty acres to each person in said partnership, subject to all the provisions of the law; and whenever such partnership is dissolved, the members shall each record the particular parts of said tract as may be allotted to him: *Provided*, That no member of said partnership shall hold a separate claim at the time of the existence of said partnership.

§ 15. **Same—Form of.**—SEC. 5. The boundary lines of all claims shall hereafter conform, as near as may be, to the cardinal points.

\* \* \* \* \*

## SUBJECT II.

### No. 8.—AN ACT TO ESTABLISH THE TERRITORIAL GOVERNMENT OF OREGON.<sup>1</sup>

**§ 1. Boundaries—Indians—Missionary Stations.**—*Be it enacted, etc.,* That from and after the passage of this act, all that part of the territory of the United States which lies west of the summit of the Rocky Mountains, north of the forty-second degree of north latitude, known as the Territory of Oregon, shall be organized into and constitute a temporary government by the name of the Territory of Oregon: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to affect the authority of the Government of the United States, to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed: *And provided also*, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, together with the improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong: *And provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

\* \* \* \* \*

**§ 2. Legislative Authority.**—**SEC. 6.** *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the Legislative Assembly shall be submitted to the Congress of the United States, and if disapproved shall be null and of no effect: \* \* \* and all such laws, or any law or laws, inconsistent with the provisions of this act shall be utterly null and void; and all taxes shall be equal and uniform, and no distinction shall be made in the assessments between different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences, which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

\* \* \* \* \*

**§ 3. Judicial Power.**—**SEC. 9.** *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. \* \* \*

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<sup>1</sup> Approved August 14, 1848. (See U. S. Stat. at Large, Vol. 9, p. 323.)

The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts. \* \* \* The jurisdiction of the several courts herein provided for, both appellate and original, and that of probate courts and justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any case in which the title to land shall in any wise come into question. \* \* \* And the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. \* \* \* And each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the constitution of the United States and the laws of said Territory, as is vested in the circuit and district courts of the United States. \* \* \*

\* \* \* \* \*

§ 4. **Ordinance 1787—Laws of Provisional Government and of Congress in Force.**—SEC. 14. *And be it further enacted*, That the inhabitants of said territory shall be entitled to enjoy all and singular, the rights, privileges and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty-seven; and shall be subject to all the conditions and restrictions and prohibitions in said articles of compact imposed upon the people of said territory; and the existing laws now in force in the Territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein, so far as the same be not incompatible with the constitution of the United States, and the principles and provisions of this act; subject, nevertheless, to be altered, modified or repealed by the Legislative Assembly of the said Territory of Oregon; but all laws heretofore passed in said Territory making grants of land, or otherwise affecting or incumbering the title to lands, shall be, and are hereby declared to be, null and void; and the laws of the United States are hereby extended over, and declared to be in force in, said Territory, so far as the same, or any provision thereof, may be applicable.

\* \* \* \* \*

§ 5. **Pending Actions, etc.**—SEC. 17. *And be it further enacted*, That all suits, process and proceedings, civil. \* \* \* at law and in chancery \* \* \* which shall be pending and undetermined in the courts established by authority of the provisional government of Oregon, within the limits of said Territory, when this act shall take effect, shall be transferred to be heard, tried, prosecuted and determined in the district courts hereby established, which may include the counties or districts where any such proceeding may be pending. \* \* \* *And provided further*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the temporary government, and which may be declared contrary to the constitution of the United States.

\* \* \* \* \*

§ 6. **School Lands.**—SEC. 20. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be and the same is hereby reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

\* \* \* \* \*

§ 7. **Revenue Laws.**—SEC. 26. *And be it further enacted*, That the revenue laws of the United States be and are hereby extended over the Territory of Oregon.

\* \* \* \* \*

## SUBJECT III.

### LAWS ENACTED BY THE LEGISLATURE OF THE TERRITORY OF OREGON, FROM JULY 5, 1845, TO MARCH 2, 1853.

#### DIVISION I.—GENERAL LAWS.

##### TITLE I.—ARBITRATION.

###### No. 9.—AN ACT AUTHORIZING AND REGULATING ARBITRATION.<sup>1</sup>

§ 1. **Possession and Title to Real Estate.**—SECTION 1. *Be it enacted, etc.*, That all persons who shall have any controversy or controversies, except when the possession or title of real estate may come in question, may submit such controversy or controversies to the arbitration or umpirage of any person or persons to be mutually agreed upon by the parties. \* \* \*

§ 2. SEC. 14. This act to take effect and be in force from and after the first day of June next.

<sup>1</sup> Passed the House of Representatives Jan. 15, 1851. Passed the Council Jan. 21, 1851. See Laws Or. Ter., Sess. 1850-51, p. 55.)

##### TITLE II.—ATTACHMENT.

###### No. 10.—AN ACT ALLOWING AND REGULATING WRITS OF ATTACHMENT.<sup>1</sup>

§ 1. **When Shall Issue.**—SECTION 1. *Be it enacted, etc.*, That if any creditor, whether a resident of the Territory of Oregon or elsewhere, his agent or attorney, shall make oath or affirmation in writing before any proper authority, that his debtor hath absconded, to the injury of his creditors, or that such debtor is not a resident of the Territory, as he verily believes, and shall file the same with the clerk of the district court, such clerk shall issue a writ of attachment, directed to the sheriff or coroner, as the case may require, commanding him to attach the lands, tenements, goods and chattels, rights, credits, moneys and effects of said debtor, wherever they may be found; \* \* \*

§ 2. **How Served.**—SEC. 2. That the officer having such writ, shall go to the place where the defendant's property may be found, and there, in the presence of two citizens of the county, declare that, by virtue of

<sup>1</sup> Passed the Council Feb. 4, 1851. Passed the House of Representatives Feb. 5, 1851. (See Laws Or. Ter., Sess. 1850-51, p. 57.) In effect from date.

said writ, he attaches said property at the suit of such plaintiff; and the said officer, with the said citizens, who shall be under oath or affirmation, to be by him administered \* \* \* shall make a true inventory and appraisal of all the property attached, which shall be signed by said officer and citizens and returned with the writ, with the time when the same was served; and which, from the time of service, shall bind the property and the estate of the defendant so attached. \* \* \*

**§ 3. Notice to be Published.**—SEC. 3. That upon return of said writ, the clerk who issued the same shall make out an advertisement, stating the names of the parties, the time when, from what court, and for what sum the writ issued, and deliver the same to the plaintiff, or his attorney, on demand, who shall cause the same, within thirty days, to be inserted in one of the newspapers printed in this Territory, and nearest the place where the attachment issued, for six weeks successively; and if any plaintiff shall neglect to have such notice published, the attachment shall be dismissed with costs.

\* \* \*  
**§ 4. Sale of Property.**—SEC. 11. That after judgment of the plaintiff in attachment, all the property remaining in the hands of the officer, with the lands and tenements, if any, whether held by [legal] or equitable title, shall be sold, by order of the court, under the same restrictions and regulations as if the same had been levied upon by execution, \* \* \*

**§ 5. When Lands, etc., in Another County.**—SEC. 12. That in all cases of attachment by virtue of this act, if the plaintiff, his agent or attorney, shall make and file with the clerk an affidavit setting forth that he verily believes that the defendant in attachment hath lands, tenements, and real estate, goods or chattels, situated in any other county (naming such county) in the Territory, the clerk shall, on application of the plaintiff or his attorney, make out and seal another writ of attachment, directed to the sheriff or coroner of the county in which such other property shall be, who shall serve and return the same in the same manner, and, for neglect, shall be liable to the same penalty as if such writ had issued and was returnable in his own county; and on such writ executed there shall be the same proceedings as are hereinbefore described.

**§ 6. Joint Debtors, etc.**—SEC. 13. That when two or more are jointly bound or interested, either as joint obligors, partners, or otherwise, the writ of attachment provided for by this act may be issued against the separate or joint estates, or both of such joint debtors, or any of them, in the same manner and under the same restrictions as is provided for by this act in other cases.

**§ 7. Death Not to Abate Writ.**—SEC. 14. That if any defendant shall die after a writ of attachment shall have issued against him it shall not thereby abate; but the same shall be carried on to judgment, sale and distribution as if such death had not happened.

\* \* \*  
**No. 11.—AN ACT TO AMEND AN ACT ENTITLED “AN ACT ALLOWING AND REGULATING THE WRIT OF ATTACHMENT,” PASSED FEBRUARY 5, 1851.<sup>1</sup>**

**§ 1. Issuance of—Grounds.**—SECTION 1. *Be it enacted, etc.,* That in addition to the causes mentioned in the first section of said act, said writ may issue in like manner for the following causes: That the defendant is about to remove his property or a portion of the same beyond the jurisdiction of this court, with intent to defraud his creditors, as deponent verily believes.

\* \* \*  
<sup>1</sup>Passed the House of Representatives Jan. 16, 1852. Passed the Council Jan. 19, 1852. (See Laws Or. Ter., Sess. 1851-52, p. 68.) In effect from date.



## TITLE III.—BOUNDARIES.

**No. 12.—AN ACT EXPLANATORY OF AN ACT ENTITLED "AN ACT TO AMEND THE SEVERAL ACTS ORGANIZING COUNTIES," PASSED JUNE 27, 1844, MAKING THE COLUMBIA RIVER THE NORTHERN LINE OF CLATSOP, TUALITY AND CLAKAMAS COUNTIES.**<sup>1</sup>

§ 1. **Boundaries Oregon Territory.**—SECTION 1. *Be it enacted, etc.,* That Oregon shall consist of the following territory: Commencing at that point on the Pacific Ocean where the parallel of forty-two degrees of north latitude strikes the same, as agreed upon by the United States and New Mexico; thence north along the coast of said ocean, so as to include all the islands, bays and harbors contiguous thereto, to a point on said ocean where the parallel of fifty-four degrees and forty minutes of north latitude strikes the same; thence east along the last parallel, as agreed to between the United States and Russia, to the summit of the main dividing ridge of the Rocky Mountains, dividing the waters of the Atlantic and Pacific Oceans; thence southerly, following said main dividing ridge, to the said parallel of forty-two degrees north latitude; and thence west to the place of beginning.

<sup>1</sup>Passed Dec. 24, 1844. (See Laws Or. Ter., Sess. 1843-49, p. 72.) The act referred to in the title cannot be found among the laws now in existence. (See preface.)

## TITLE IV.—CONVEYANCES.

## CHAPTER I.—ACKNOWLEDGMENTS, ETC.

**No. 13.—AN ACT TO PROVIDE FOR THE ELECTION OF NOTARIES PUBLIC, AND DEFINE THEIR DUTIES.**<sup>1</sup>

§ 1. **Persons Appointed.**—SECTION 1. *Be it enacted, etc.,* That Alonzo M. Poe of Thurston county, David S. Maynard of King county, John M. Chapman of Pierce county, Richard H. Lansdale of Island county, and Alfred A. Plummer of Jefferson county, be and are hereby appointed and constituted notaries public in and for their respective counties, to hold their offices for one year, and until their successors are appointed and qualified; and that the governor of this Territory is hereby authorized to fill vacancies in the office of notaries public (when the same shall occur, and appoint notaries for the different counties in this Territory, as occasion may require<sup>2</sup>); \* \* \* James Scudder, in and for the county of Pacific: \* \* \*

§ 2. **Powers of.**—SEC. 2. They may receive the \* \* \* acknowledgment of all deeds, mortgages and other conveyances affecting the sale or transfer of lands or other real estate, receive and authenticate acknowledgment of powers of attorney, \* \* \* and to exercise such other powers and duties as, by the law of nations or commercial usages, or by the laws

<sup>1</sup>Passed the House of Representatives Jan. 26, 1853. Passed the Council Jan. 31, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 47.) In effect from date.

<sup>2</sup>That part inclosed in parentheses may be found on p. 59 (see ref. note 1, *supra*), under head of erratum.

of any other State, Territory, government or country, may be performed by notaries public.

\* \* \* \* \*

§ 3. **Seal of.**—SEC. 7. Every notary public shall provide a notarial seal, containing his name, name of office and place of residence, and he shall authenticate all his official acts, attestations and instruments therewith.

\* \* \* \* \*

## CHAPTER II.—RECORDING, ETC.

### No. 14.—AN ACT RELATIVE TO A TERRITORIAL RECORDER.<sup>1</sup>

§ 1. **Duties of.**—SECTION 1. *Be it enacted, etc.,* That there shall be elected by the House of Representatives, during there present session, and every two years thereafter, one territorial recorder, who, during his continuance in office, for the term of two years, and until his successors shall be elected and qualified, shall perform the duties designated in and be governed by the provisions of the "Act to establish a recorder's office;"<sup>2</sup> approved August 15, 1845.

\* \* \* \* \*

§ 2. **Repealing Clause.**—SEC. 4. That so much of the act entitled "An act to establish a recorder's office" as is inconsistent with this act, be and the same is hereby repealed.

<sup>1</sup> Approved Dec. 12, 1846. (See Laws Or. Ter., Sess. 1843-49, p. 5.)

<sup>2</sup> The act referred to cannot be found among the laws in existence. (See Preface.)

### No. 15.—AN ACT TO ESTABLISH THE OFFICE OF PROBATE CLERK.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.,* That there shall be elected, biennially, in each county in this Territory, a clerk of the probate court. \* \* \*

\* \* \* \* \*

<sup>1</sup> (See Laws Or. Ter., Sess. 1850-51, p. 207.) In effect from date of passage. No date shown.

### No. 16.—AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO ESTABLISH THE OFFICE OF PROBATE CLERK," PASSED AT THE LAST LEGISLATIVE ASSEMBLY.<sup>1</sup>

§ 1. **To be Recorder of Deeds, etc.**—SECTION 1. *Be it enacted, etc.,* That it shall be and the same is hereby made the duty of the clerk of the probate court, in each county of this Territory, to record all deeds, bonds, mortgages, conveyances, town plats, and all or any other instrument or instruments of writing required by law to be recorded.

\* \* \* \* \*

<sup>1</sup> Passed May 16, 1850. (See Laws Or. Ter., Sess. 1850-51, p. 210. See, also, No. 15.) In effect from date.

### No. 17.—AN ACT TO CREATE AND ESTABLISH THE OFFICE OF COUNTY AUDITOR.<sup>1</sup>

§ 1. **Election of.**—SECTION 1. *Be it enacted, etc.,* That there shall be elected \* \* \* in each of the counties in this Territory, at the next general election, \* \* \* a county auditor, \* \* \*

\* \* \* \* \*

<sup>1</sup> Passed the Council Jan. 27, 1853. Passed the House of Representatives Jan. 31, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 53.) In effect from date.



§ 2. **Duties of.**—SEC. 8. The auditor shall perform all the duties belonging to said office, shall be \* \* \* county recorder for the county in which elected. All the duties performed, or powers heretofore exercised, by the probate clerk, except such as have been or shall be transferred to the probate judges, shall hereafter devolve upon the auditors in their respective counties.

\* \* \* \* \*

### CHAPTER III.—TOWN PLATS.

#### No. 18.—AN ACT IN RESPECT TO THE RECORDING OF TOWN PLATS.<sup>1</sup>

##### ARTICLE I.

§ 1. **Plat to be Recorded.**—SECTION 1. Any person or persons, his, her or their legal representatives, who may hereafter lay off any town within this Territory, shall, previous to the sale of any lots in such town, cause to be recorded in the recorder's office of the county wherein the same may lie, a correct copy of the plat of said town, with the public grounds (if any there be), streets, lanes and alleys, with their respective widths properly marked, and the lots regularly numbered in numerical order, and the size of the lots marked by reference to the plat of said town.

§ 2. **What Plat Conveys.**—SEC. 2. Every donation or grant to the public, or to any individual or individuals, religious society or societies, or to any corporation or body politic, marked or noted as such on the plat of the town wherein such donation or grant may have been made, shall be considered, to all intents and purposes, as a general warranty to the said donee or donees, grantee or grantees, for his, her or their use, for the purposes intended by the donor or donors, grantor or grantors aforesaid.

§ 3. **Plat of Addition: Record of.**—SEC. 3. Every person hereafter laying off any lots in addition to any town in this Territory shall, previous to the sale of such lots, have the same recorded under the like regulations as are provided for recording the original plat of said town, and thereafter the same shall be considered an addition thereto.

§ 4. **How Plat Acknowledged.**—SEC. 4. Every person whose duty it may be to comply with the foregoing requisitions shall, at or before the time of offering such plat or other paper or papers for record, acknowledge the same before the recorder of the proper county, or some justice of the peace or notary public thereof, a certificate of which acknowledgment shall be, by the officers taking the same, endorsed on or annexed to such plat or other paper, and recorded therewith, and form a part of said record.

\* \* \* \* \*

§ 5. **Errors in: How Corrected.**—SEC. 6. Where any town plat heretofore, or hereafter to be recorded does not fully and clearly set out and describe the size of the lots, streets, alleys and corners of the lines of said town, and when donations have been given, or intended to be given, either to the public or to individuals, or to any religious society or societies, and it hath been neglected to insert the same on said lot, the proprietors of such town, or any of them, are hereby empowered and required to make out such other description as will more fully and clearly explain

<sup>1</sup> Passed the House of Representatives Feb. 1, 1851. Passed the Council Feb. 1, 1851. (See Laws Or. Ter., Sess. 1850-51, p. 260.)

their true intentions, which shall be acknowledged, certified, and recorded, as required in this article.

ARTICLE II.

§ 6. **Vacation of Plat.**—SECTION 1. Whenever any person, or body corporate, interested in any town in this Territory, not incorporated, or which has not a corporation in active operation, may desire to vacate any lot, street, alley, common, or any part thereof, or may desire to vacate any public square, or part thereof, in any such town, it shall be lawful for such person, or corporation, to petition the board of county commissioners for the proper county, setting forth the particular circumstances of the case, and giving a distinct description of the property to be vacated, and the names of the persons to be particularly affected thereby; which petition shall be filed with the clerk of said board thirty days previous to the sitting thereof, and notice of the pendency of said petition shall be given for the same space of time either in a public newspaper printed in said town, or by manuscript notices thereof, set up in three of the most public places in said town, containing a description of the property to be vacated.

§ 7. **Powers of Commissioners.**—SEC. 2. If no opposition be made to such petition or application, the board of county commissioners may, in their discretion, vacate the same, with such conditions and restrictions as they may deem reasonable, and for the public good.

§ 8. **Duty in Certain Cases.**—SEC. 3. If opposition be made thereto, such application shall be continued until the next term of said board, at which time, if the objector shall consent to said vacation, or if the petitioner shall produce to the board the petition of two-thirds of the property holders in said town of lawful age, the said board may proceed to hear and determine upon said application, and may, if in their opinion justice require it, grant the prayer of the petitioner, in whole or in part.

§ 9. **To Whom Part Vacated Shall Belong.**—SEC. 4. The part so vacated, if it be a lot or lots, shall vest in the rightful owner, who may have the title thereof, according to law; and if the same be a street or alley, the same shall be attached to the lots or ground bordering on such street or alley; and all right or title thereto shall vest in the person or persons owning the property on each side thereof, in equal proportions, according to the length or breadth of such lots or ground, as the same may border on such street or alley.

§ 10. **Whose Consent Necessary.**—SEC. 5. But no such vacation of a street or alley shall take place, unless the consent of the person or persons owning the property immediately adjoining to said street or alley be obtained thereto in writing; which consent shall be acknowledged before some justice of the peace, or notary public, and be filed with said board.

§ 11. **Vacation of Streets, etc.**—SEC. 6. In cases where any person interested in any incorporated town in this Territory, the corporate functions of which shall be in active operation, may desire to vacate any street, alley, or common, or any part thereof, it shall be lawful for such person to petition the trustees or other body, in like manner as persons interested in towns not incorporated are authorized to petition the board of county commissioners, and the same proceedings shall be had thereon before such trustees, or other corporate body having jurisdiction, as are authorized to be had before the board of county commissioners; and such trustees, or other corporate body, may determine on such application under the same restrictions and limitations as are contained in the foregoing provisions of this article.

§ 12. **Public Squares.**—SEC. 7. Whenever a public square, or any part thereof, shall be vacated, the property thereof shall vest in the board of county commissioners, for the use of the proper county; and whenever any common, or any part thereof, in any incorporated town, or belonging

thereto. shall be vacated, the same shall vest in the trustees, or other corporate body, for the use of such town; and the proper authorities may sell the same, and make a title to the purchaser thereof, and appropriate the proceeds thereof for the benefit of said corporation or county, as the case may be.

§ 13. **Owner May Cause Plat to be Vacated.**—SEC. 8. In all cases where two or more persons have laid out, or shall hereafter lay out, a town, or lands contiguous and adjoining to each other, and such town does not improve; either of the individuals holding all the legal rights, title and interest in all the lots laid off by such party, and attached, may have the same vacated, as in a case of a lot, street, or alley, on application of the party laying out such addition, or part of said town, or on the application of such person as may acquire or derive the legal title to the land and lots in such addition; and in no case shall persons purchasing lots in other additions of said town be capable of making any valid objections to such vacation, if such vacation does not obstruct any public road laid out and established by law.

§ 14. **Additions.**—SEC. 9. If any person shall lay off an addition to any town which does not improve, and shall be the legal owner of all the lots contained in such addition, such person, or any other person who shall become the legal owner thereof, may have such addition or any part thereof vacated, in like manner as provided in the last preceding section: \* \* \*

#### CHAPTER IV.—COUNTY SEATS.

**No. 19.—AN ACT SUPPLEMENTARY TO “AN ACT TO ESTABLISH A PROBATE COURT, AND DEFINE ITS DUTIES AND POWERS,” AND “AN ACT AUTHORIZING THE PROBATE COURT TO DO COUNTY BUSINESS.”<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.* \* \* \*

\* \* \* \* \*

§ 2. **To Have Charge and Disposition of County Seats.**—SEC. 21. That so soon as the county seat of any county shall be located, it shall be the duty of the probate court to take possession of any quantity of land, including the location, not exceeding one hundred and sixty acres, the amount for which each county has a preëmption by the act of Congress, and cause the same, or so much thereof as the court may see fit (if not already done), to be laid off into town lots, streets, alleys, and public squares, and sell and dispose of lots at private or public sale, as the court may determine will be most likely to bring the best prices.

§ 3. **When Clerk May Sell Lots.**—SEC. 22. The court in term, or the clerk in vacation, under instructions entered upon the minutes of the court, may dispose of lots.

§ 4. **Bond for Deed.**—SEC. 23. When a lot shall be sold by virtue of the preceding section, the clerk shall execute in the name and on behalf of the probate court of the proper county, a bond for deed to said lot, provided the county shall receive one from the government.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Sept. 28, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 214.) The two acts referred to in the title cannot be found among the laws in existence. (See Preface.)

§ 5. **Record of Sales.**—SEC. 26. The clerk shall provide and keep a book in which he shall enter the names of purchasers, the number of the lot, date of sale, and amount received.

§ 6. **Certain Preëmption Rights.**—SEC. 27. In towns already laid off, in which lots have been sold, the owner of such lot shall have preëmption right thereto, at the price which the court in its discretion, under all the circumstances, may determine and fix.

**No. 20.—AN ACT AUTHORIZING COUNTY COMMISSIONERS TO LOCATE LAND FOR THE BENEFIT OF COUNTY SEATS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.,* That the county commissioners in each county of this Territory be and are hereby authorized to locate one quarter-section of land in their respective counties for the benefit of county seats, in accordance with an act of Congress passed May 26, 1824, and report the same to the office of Surveyor General.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Jan. 29, 1853. Passed the Council Jan. 31, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 68.) In effect from date.

**TITLE V.—CODE OF LAWS.**

**No. 21.—AN ACT TO ENACT AND CAUSE TO BE PUBLISHED A CODE OF LAWS.<sup>1</sup>**

§ 1. **Titles of Acts Adopted.**—SECTION 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon,* That the revised laws of Iowa of 1848 hereinafter entitled, as hereinafter amended, be and they are hereby adopted as the laws of this Territory.

\* \* \* \* \*

8. An act allowing and regulating writs of attachment. (Page 77.)<sup>2</sup>

\* \* \* \* \*

18. An act to regulate conveyances. (Page 202.)<sup>3</sup>

\* \* \* \* \*

24. An act relative to divorce and alimony [and other purposes.]† (Page 237.)<sup>4</sup> Strike out the sixth specification of the first [second]† section.

25. An act to regulate the institutions of suits by foreign executors, administrators and guardians within this Territory. (Page 243.)<sup>5</sup>

\* \* \* \* \*

27. [An act to amend an act entitled]† an act to allow and regulate the action of right and ejectment. (Page 257.)<sup>6</sup>

28. An act to allow [and regulate]† the action of ejectment. (Page 258.)<sup>7</sup>

\* \* \* \* \*

31. An act to prevent frauds. (Page 270.)<sup>8</sup>

\* \* \* \* \*

<sup>1</sup> Passed Sept. 29, 1849. (See Laws Or. Ter., Sess. 1843-49, p. 103; see also Division IV, Subject III, Part II.)

<sup>2</sup> See No. 95.

<sup>4</sup> See No. 101.

<sup>6</sup> See No. 104.

<sup>8</sup> See No. 106.

<sup>3</sup> See No. 97.

<sup>5</sup> See No. 98.

<sup>7</sup> See No. 103.

† The parts enclosed in [ ] are omitted from this act, but appear in the laws as shown in the Iowa Statute referred to.

35. An act for the benefit of insane persons. (Page 287.)<sup>9</sup>

\* \* \* \* \*

39. An act to provide for the election of justices of the peace, to prescribe their power and duties, and to regulate their proceedings. (Page 302.)<sup>10</sup>

\* \* \* \* \*

42. An act relative to mechanic's liens. (Page 380.)<sup>11</sup>

\* \* \* \* \*

44. An act for the limitation of actions, and for avoiding vexatious law suits. (Page 384.)<sup>12</sup>

45. An act concerning minors, orphans and guardians. (Page 430.)<sup>13</sup>

\* \* \* \* \*

47. An act concerning mortgages. (Page 442.)<sup>14</sup>

\* \* \* \* \*

49. An act to provide for the appointment of notaries public, and to prescribe their duties. (Page 449.)<sup>15</sup>

\* \* \* \* \*

51. An act to provide for the collection of demands growing out of contracts for sales of improvements on public lands. (Page 456.)<sup>16</sup>

\* \* \* \* \*

57. An act to allow and regulate the action of right. (Page 526.)<sup>17</sup>

\* \* \* \* \*

62. An act concerning the construction of statutes. (Page 572.)<sup>18</sup>

\* \* \* \* \*

65. An act to provide for the recording of town plats. (Page 607.)<sup>19</sup>  
Section first—strike out all between the word "made," in the sixth line, and the word "which," in the ninth line. Strike out the ninth section.

\* \* \* \* \*

71. An act subjecting real and personal estate to execution. (Page 628.)<sup>20</sup>  
Strike out the third and fourth sections. Section fifth, fifth line, after the word "to wit," insert the following: "His or her homestead, not exceeding in value five hundred dollars." Twelfth line, strike out the word "fifty" and insert the words "one hundred." Likewise in the fourteenth line. Strike out section sixth. Section seventh, second line, strike out the word "seventy" and insert the word "thirty." Strike out sections twenty-one, twenty-two, twenty-three, twenty-nine and thirty.

72. \* \* \* Strike out "Council and House of Representatives" in the enacting clause of each act and insert "Legislative Assembly" Strike out the repealing clause of each act. Strike out the word "Iowa" wherever it occurs and insert "Oregon," wherever it occurs in the several acts.

§ 2. SEC. 3. The person elected to superintend the public printing shall be authorized to correct any errors or omissions in amendments or otherwise which may be necessary, not changing the substance.

§ 3. SEC. 4. All laws not published in this code shall be and the same are hereby repealed, saving all rights, remedies, liabilities, obligations, restraints and conditions now existing in virtue thereof: *And provided,* That this section shall not be construed to release any public officer from any obligation or penalty he may now be under.

<sup>9</sup> See No. 99.

<sup>10</sup> See No. 100.

<sup>11</sup> See No. 107.

<sup>12</sup> See No. 108.

<sup>13</sup> See No. 109.

<sup>14</sup> See No. 110.

<sup>15</sup> See No. 111.

<sup>16</sup> See No. 112.

<sup>17</sup> See No. 102.

<sup>18</sup> See No. 96.

<sup>19</sup> See No. 113.

<sup>20</sup> See No. 105.

## TITLE VI.—CORPORATIONS.

**No. 22.—AN ACT TO REGULATE INCORPORATED LITERARY AND RELIGIOUS SOCIETIES.<sup>1</sup>**

§ 1. **Powers of.**—SECTION 1. *Be it enacted, etc.,* That all associations for literary or religious purposes, except common schools, colleges and universities which the Legislative Assembly may hereafter incorporate, shall be regulated as follows, viz.: The person or persons named in each act of incorporation, their associates and successors, by their corporate name, may sue and be sued, plead and be impleaded, in all courts of law and equity; have a common seal, and alter the same at their pleasure; hold all kinds of estate, which they may acquire by purchase or donation, and the same to sell and convey at discretion; form a constitution, and enact by-laws for their good government: \* \* \* *Provided, however,* That said constitution, by-laws and regulations shall be consistent with the Constitution of the United States, and with the act of Congress organizing this Territory.

\* \* \* \* \*

§ 2. **Right of Repeal Reserved.**—SEC. 4. The right to alter, amend or repeal any act of incorporation granted under the provisions of this act, when the public good requires such alteration, amendment, or repeal, is expressly reserved to any future Legislature. \* \* \*

<sup>1</sup> Passed the House of Representatives Jan. 28, 1851. Passed the Council Feb. 1, 1851. (See Laws Or. Ter., Sess. 1850-51, p. 176.) In effect from date.

## TITLE VII.—COURTS.

## CHAPTER I.—CIRCUIT AND DISTRICT COURTS.

**No. 23.—AN ACT REGULATING THE EXECUTIVE POWER, THE JUDICIARY, AND FOR OTHER PURPOSES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* \* \* \*  
\* \* \* \* \*

## ARTICLE II.

§ 2. **Judicial Power.**—SEC. 1. The judicial power shall be vested in the circuit courts and as many justices of the peace as shall from time to time be appointed or elected according to law.

\* \* \* \* \*

§ 3. **Jurisdiction of Circuit Courts.**—SEC. 3. The circuit courts shall have original jurisdiction in all criminal cases, and in all cases in law and equity when the amount sued for is not under one hundred and fifty dollars, and also in all probate and county business, and appellate jurisdiction from justices of the peace.

\* \* \* \* \*

<sup>1</sup> Passed June 27, 1844. (See Laws Or. Ter., Sess. 1843-49, p. 98.)

<sup>2</sup> See Nos. 78 to 94 *infra*, inclusive.

§ 4. **Jurisdiction of Justices of the Peace.**—SEC. 10. Justices of the peace shall have jurisdiction in all civil cases in all sums not exceeding one hundred and fifty dollars.

ARTICLE III.

§ 5. **Statutes of Iowa, 1839, Adopted.**—SECTION 1. All the statute laws of Iowa Territory passed at the first session of the Legislative Assembly of said Territory, and not of a local character, and not incompatible with the condition and circumstances of this country, shall be the law of this government, unless otherwise modified; and the common law of England and principles of equity, not modified by the statutes of Iowa or of this government, and not incompatible with its principles, shall constitute a part of the law of this land.<sup>2</sup>

§ 6. **When Laws to Take Effect.**—SEC. 3. That when not otherwise provided, all laws shall take effect and be in force from and after their passage.

§ 7. **Repealing Clause.**—SEC. 4. That all acts or parts of acts conflicting with this act, or any act of this session, is hereby repealed.

<sup>2</sup> See Nos. 78 to 94, inclusive, *infra*—Division III, Subject III, Part II.

**No. 24.—AN ACT TO DEFINE THE BOUNDARY LINES OF THE SEVERAL DISTRICTS IN OREGON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.* \* \* \*

§ 2. SEC. 5. \* \* \* Vancouver district shall be as follows: Commencing at the middle of the main channel at the mouth of the Columbia river; thence up the said river to the northern boundary of Oregon Territory.

<sup>1</sup> Approved Dec. 19, 1845. (See Laws Or. Ter., Sess. 1843-49, p. 36.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 25.—AN ACT TO ESTABLISH CIRCUIT COURTS AND PRESCRIBE THEIR POWERS AND JURISDICTION.<sup>1</sup>**

§ 1. **Circuit Judge.**—SECTION 1. *Be it enacted, etc.*, That the several counties in Oregon Territory shall form one circuit, and there shall be elected by the House of Representatives one circuit judge, who shall be commissioned by the governor, \* \* \* and each court held in the respective counties shall be called and styled — circuit court, according to the name of the county in which it may be holden.

§ 2. **Jurisdiction.**—SEC. 2. Such circuit[s] [courts]<sup>2</sup>, in their respective counties, shall have original jurisdiction of all civil suits, complaints, pleas, and matters, real, personal, and mixed, and between party and party, which shall be legally brought before them; \* \* \*

§ 3. **Suits in County Courts Transferred.**—SEC. 4. That all suits, complaints, pleas, and matters now pending in the present established county courts, which do not relate to county business, and all writs issued out of the said county courts, shall be transferred and be made returnable to the circuit courts; and the said court shall hear, try and determine said causes, the same as if they had been originally brought or issued by said

<sup>1</sup> Approved Dec. 19, 1845. (See Laws Or. Ter., Sess. 1843-49, p. 3.) In effect from date.

<sup>2</sup> Not in act.



circuit court; and all laws and parts of laws now in force, or hereafter to become in force, applicable or concerning county courts, as now organized, with the exception of county business alone, shall be applicable to said circuit courts by this act established. The records of the said county courts shall be taken and become the records of the circuit court, and the clerk of the county court shall be clerk of the circuit court, as is now provided by law. \* \* \*

\* \* \* \* \*

**No. 26.—AN ACT TO LAY OUT THE JUDICIAL DISTRICTS OF OREGON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.* \* \* \*

\* \* \* \* \*

§ 2. **Third District.**—SEC. 5. The third judicial district shall consist of the counties of Clark, Clatsop and Lewis.

\* \* \* \* \*

<sup>1</sup> Passed July 25, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 158.) In effect from date.

**No. 27.—AN ACT GIVING CONCURRENT JURISDICTION TO THE DISTRICT COURTS OVER WATER COURSES FORMING A BOUNDARY BETWEEN JUDICIAL DISTRICTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That, for judicial purposes, any law making water courses a boundary between counties of different judicial districts, shall be construed to include such water courses within the boundary of both districts, and the jurisdiction of the district courts of the respective districts within the proper counties shall be concurrent; but the court which shall first take cognizance of any matter of business, under the provision of this section, shall retain the same, to the exclusion of the other.

<sup>1</sup> Passed Sept. 6, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 272.)

**No. 28.—AN ACT DIRECTING THE MODE OF PROCEEDING IN CHANCERY.<sup>1</sup>**

§ 1. **District Courts: Jurisdiction.**—SECTION 1. *Be it enacted, etc.*, That the district courts of this Territory shall have jurisdiction in all cases properly cognizable by a court of chancery in which plain, adequate and complete remedy cannot be had at law.

§ 2. **Supreme Court.**—SEC. 2. That the Supreme Court shall have concurrent jurisdiction with the district courts in all cases properly cognizable by a court of chancery, where the title to or any contract in relation to land in question, or the sum or matter in dispute exceeds one thousand dollars in value; and appellate jurisdiction in all cases regularly brought before them from the chancery decisions of the district court.

\* \* \* \* \*

§ 3. **Subpena.**—SEC. 5. The clerk, on the application of the complainant or his solicitor, shall, after said petition is filed, issue a subpena to the defendant or defendants named in said petition, commanding him or them to appear at the next term of the court and answer the complainant's petition.

§ 4. **How Subpena Attested, etc.**—SEC. 6. The \* \* \* subpena shall be signed by the clerk, sealed with the seal of the court, and be tested on the same day on which it is issued.

<sup>1</sup> Passed Sept. 14, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 187.)



§ 5. **Service of Subpena on Non-Residents, etc.**—SEC. 7. When the complainant shall make several defendants to his petition, who reside in different counties in this Territory, the clerk of the court in which the same is filed may issue subpoenas into the several counties in which said defendants are supposed to reside, directed to any proper officer therein, who shall serve and return the same; and in case where any or all of the defendants reside out of this Territory, the complainant may cause personal service of subpoena, with a copy of the petition; or he may cause notice of the pending of the petition, containing a summary statement of the object and prayer thereof, to be published six consecutive weeks in some newspaper printed in the county where the petition is filed, if there be any, and, if not, in some newspaper printed in this Territory of general circulation in the county.

§ 6. **How Service Made—Proof of.**—SEC. 8. The service of a subpoena, or other process for appearance, shall be by delivering a copy thereof to the defendant, or leaving one at his dwelling house, or usual place of abode; the officer or other person serving the same shall endorse on the original the time and manner of service. And when the service is made out of this Territory, the return shall be verified by oath or affirmation, and upon return of service of the process, or due proof of notice having been given as aforesaid, the defendant shall be considered in court.

\* \* \* \* \*

§ 7. **Unknown Heirs—Notice to.**—SEC. 10. In cases where it shall be necessary to make the heirs of any decedent defendants, and the names of all, or any part of them, are unknown, and the complainant annexes to his petition an affidavit of his want of knowledge of the names or residence of such heirs, proceedings may be had against them, without naming them, and the court shall make such order in relation to notice as they may deem proper.

\* \* \* \* \*

§ 8. **Suit to Quiet Title.**—SEC. 12. Any person having the legal title and possession of lands may file a petition against any other persons setting up a claim thereto; and if the complainant establishes his title to said lands the defendant shall be decreed to release his claim, and to pay the complainant his costs, unless the defendant in his answer shall disclaim all title or claim to such lands and offer to give such release to the complainant;

\* \* \* \* \*

§ 9. **Judgments: How Enforced.**—SEC. 14. In all cases where judgments at law or decrees in chancery have been obtained and rendered against any person, and the debtor has not personal or real estate subject to levy on execution sufficient to satisfy said judgment or decree, but has any equitable interest in real estate as mortgagor, mortgagee or otherwise, \* \* \* the same may be subjected in chancery to the payment of said judgment or decree; and applications may be made to the courts of chancery in the county where such judgment or decree was rendered, or where said lands lie, to subject any or all the hereinbefore enumerated interests to the payment of the judgment or decree aforesaid, according to the usual course of proceeding and known usages of courts of chancery; and the said courts shall decree sales and enforce all necessary transfers and conveyances to vest in any person purchasing or taking under such decree, all the right, title and interest of said debtor in the interests sold, or the subject of the decree at the time of the service of the process in such case, to be held in the same manner such debtor held the same: *Provided*, That the sale of all equitable interests in real estate shall be conducted, in all respects, in the same manner as is provided by law for the sale of real estate.

\* \* \* \* \*

§ 10. **Effect of Decree.**—SEC. 34. The decree of either of said courts, sitting in chancery shall, from the time of their being pronounced, have the force, operation and effect of a judgment at law.

§ 11. **Decree for Conveyance.**—SEC. 35. When a decree shall be made for a conveyance, release, or acquittance, in either of said courts sitting as a court of chancery, and the party against whom the said decree shall pass does not comply therewith by the time appointed, the said decree shall be considered and taken in all courts of law and equity to have the same operation and effect, and be as available, as if the conveyance, release, or acquittance, had been executed conformably to such decree.

\* \* \* \* \*

§ 12. **How Decrees, etc., Enforced.**—SEC. 48. The courts of chancery shall have power to enforce their decrees and orders by attachment or sequestration, and if necessary to award and issue final process against the goods, chattels, lands and tenements \* \* \* as may be issued on a judgment rendered in a court of law; \* \* \*

\* \* \* \* \*

§ 13. **Appeals.**—SEC. 52. Any person, or the heirs or personal representatives of such person, may appeal to the Supreme Court from any final sentence or decree pronounced or made in any cause or suit in chancery in the district courts, on giving notice and security within the time required by law in cases of appeals of suits at law; and no lien created by said sentence and decree on any real estate shall be vacated or removed by said appeal, but shall remain until the final adjudication of the cause in the Supreme Court.

\* \* \* \* \*

§ 14. **Limitation.**—SEC. 54. Any person who was a party to a decree of a court of chancery, his heirs, executors, or administrators, may file a petition for a review of the proceedings in which such former decree was rendered, at any time within five years next after rendering such decree, unless the person entitled to such petition for review was an infant, *feme covert*, *non compos mentis*, or imprisoned, then within five years after the removal of said disability.

\* \* \* \* \*

§ 15. **Proceedings to Vacate Decree not to Affect Bona Fide Purchasers.**—SEC. 57. Parties against whom a decree has been rendered, without other notice than the publication in the newspaper, as provided for in this act, may at any time within five years after the date of the decree, have the said decree opened, and be let in to defend and to a hearing; but before the decree shall be opened, the applicant shall give notice to the original complainant, or his representatives, of the intention to make the application; \* \* \* *Provided*, That the title to any real \* \* \* estate, the subject of the former decree, which by it, or in consequence of it, shall have passed into the hands of a *bona fide* purchaser, shall not be affected by any proceedings under this section.

\* \* \* \* \*

## **No. 29.—AN ACT TO REGULATE THE PRACTICE IN THE DISTRICT AND SUPREME COURTS OF THIS TERRITORY.<sup>1</sup>**

§ 1. **How Writs Shall Run, etc.**—SECTION 1. *Be it enacted, etc.*, That all writs issued by any court in this Territory shall run in the name of the United States of America, and bear test in the name of the clerk of said court, and shall be sealed with the seal of said court, and made returnable to the first day of the next term after the date of said writ.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Feb. 3, 1851. Passed the Council Feb. 4, 1851 (See Laws Or. Ter., Sess. 1850-51, p. 198.) In effect from date.

§ 2. **Entry and Satisfaction of Judgment.**—SEC. 27. The clerk of the several district courts shall provide and keep in their respective offices a well bound book for entering therein an alphabetical docket of all judgments and decrees rendered in their respective courts; and it shall be the duty of the said clerks during every term, or within thirty days thereafter, to enter in such book in alphabetical order, the name of the person against whom the judgment or decree was rendered, which shall contain in columns ruled for that purpose, the names of the parties, the date, the nature of the judgment or decree, the amount of the debt, damages and costs, the book and page in which it is entered, and leaving a blank column or columns for entering a note or memorandum of the satisfaction or other disposition thereof; and when any judgment or decree shall be satisfied by execution or otherwise, or shall be set aside, the said clerk shall enter a memorandum thereof in the column left for that purpose, showing how disposed of, and the date, book and page where the evidence thereof is recorded. \* \* \*

\* \* \*  
§ 3. **Service of Writ in General.**—SEC. 30. That all writs of summons issuing from any court of record in this Territory shall be served by reading to the defendant, if found, and if not found by leaving a copy thereof, attested by the officer serving the same, at his dwelling house or usual place of abode.

§ 4. **On Corporation.**—SEC. 31. That in all suits against any corporation the summons shall be served by leaving an attested copy thereof with the clerk, cashier, secretary, agent, or any other officer having charge of their business, and if there be no such officer found within the county, the summons may be served on any member of the corporation.

§ 5. **On County.**—SEC. 32. That in all suits against the board of commissioners of any county in this Territory, the summons shall be served by leaving an attested copy thereof with one of the commissioners, or with the clerk of the board of county commissioners.

\* \* \*  
§ 6. **Seal: What Shall Constitute.**—SEC. 36. That any instrument of writing to which the maker shall affix a scrawl, by way of seal, shall be of the same effect and obligation to all intents as if the same was sealed: *Provided*, That the seal be referred to in the body of the instrument.

\* \* \*  
§ 7. **Minors: How Shall Sue.**—SEC. 39. Hereafter minors may bring suits in all cases whatsoever by any person that they may select as their next friend; \* \* \*

**No. 30.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE JURISDICTION OF THE SUPREME AND DISTRICT COURTS."**<sup>1</sup>

§ 1. **Supreme Court Judgment: How Executed.**—SECTION 1. *Be it enacted, etc.*, That it may be lawful for the Supreme Court, in all cases where final judgment is rendered in said court, to send the same down for execution to the district court of the county from whence it came; and it shall be the duty of the clerk of said district court to enter the said judgment of the Supreme Court upon the records of said district court, and thereafter the same proceedings shall be had for the enforcement of said judgment as if the same had been rendered in said district court: \* \* \*

<sup>1</sup> Passed the Council Dec. 22, 1852. Passed the House of Representatives Jan. 26, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 67.)

**No. 31.—AN ACT TO DEFINE THE JUDICIAL DISTRICTS OF OREGON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.* \* \* \*

§ 2. **Number of Districts.**—SEC. 2. The Territory is hereby divided into three judicial districts.

\* \* \* \* \*

§ 3. **Third District.**—SEC. 5. The third district shall be composed of the counties of \* \* \* Clarke, Lewis, Thurston, Pierce and Island.

\* \* \* \* \*

§ 4. **Counties of King and Jefferson.**—SEC. 10. The county of King is hereby attached to the county of Pierce, for judicial purposes; and the county of Jefferson, for like purposes, is attached to the county of Island.

\* \* \* \* \*

<sup>1</sup> Passed the Council Feb. 1, 1853. Passed the House of Representatives Feb. 1, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 51.) All inconsistent laws repealed. In effect from date.

**CHAPTER II.—PROBATE COURTS.**

**No. 32.—AN ACT ON LETTERS TESTAMENTARY OR OF ADMINISTRATION.<sup>1</sup>**

§ 1. **Power to Grant in Vacation.**—SECTION 1. *Be it enacted, etc.*, That the clerk or judge of the circuit court shall have power to grant letters testamentary or of administration in vacation, which letters shall, when granted by the clerk, be subject to the approval or disapproval of the circuit court at its next term thereafter.

<sup>1</sup> Passed Dec. 18, 1844. (See Laws Or. Ter., Sess. 1843-49, p. 81.)

**No. 33.—AN ACT TO ESTABLISH A PROBATE COURT AND DEFINE ITS DUTIES AND POWERS.<sup>1</sup>**

§ 1. **How Constituted.**—SECTION 1. *Be it enacted, etc.*, That there shall be elected in each county in this Territory, three suitable persons, who shall \* \* \* be styled the judges of probate, and the court hereby constituted shall be styled the probate court.

\* \* \* \* \*

§ 2. **Powers and Jurisdiction.**—SEC. 6. That the probate courts in their respective counties, shall have and possess the following powers: Exclusive and original jurisdiction in all cases relative to the probate of last wills and testaments; the granting of letters testamentary and of administration, and revoking the same; the appointing or displacing guardians of orphan minors and persons of unsound mind; \* \* \* to hear and determine all disputes and controversies respecting wills, the right of executorship, administration or guardianship, or respecting duties \* \* \* of executors, administrators or guardians. \* \* \*

\* \* \* \* \*

§ 3. **May Issue Writs.**—SEC. 14. That the court established by this act shall have power to issue all writs which may be necessary in the exercise of its jurisdiction according to the principles and usages of law.

§ 4. **Service of, in Certain Cases.**—SEC. 15. That where there is no sheriff or coroner, or either of them [is not] qualified to act, or both are

<sup>1</sup> Passed in Council Sept. 3, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 210.)

interested or prejudiced, the court may appoint one or more persons to execute their process, \* \* \*

\* \* \*  
 § 5. **When Judges Disqualified.**—SEC. 18. That if the majority of the judges of the probate court shall be interested in any cause or proceeding pending before them, or related to either party, the same shall be certified with the original papers to the district court of the county, which shall proceed thereon to final judgment and determination, the same as the probate court might have done.

§ 6. **Adjourned Terms.**—SEC. 19. \* \* \* Special adjourned terms may be held in continuation of the regular term, upon its being so ordered by the court in term time, and entered by the clerk on the records of the court.

\* \* \*  
 § 7. **Process.**—SEC. 23. That all process issuing out of the probate court shall be tested by the clerk, and sealed with the seal of said court.

§ 8. **Enforcement of Judgments, etc.**—SEC. 24. That the probate court shall have the same power and authority, under like restrictions and rules of law, to enforce and execute their orders, rules, judgments and decrees as may be prescribed by law for the district courts of this territory.

§ 9. **Clerk May Issue Letters in Certain Cases.**—SEC. 25. That it shall be the duty of the clerk of said probate court to issue letters of administration to any person applying for the same, in vacation of said court; subject, however, to the approval or disapproval of said court at its next session; and subject to all the restrictions and liabilities provided for by law; and subject at any time to the investigation of said probate court: *Provided, however,* That where there is a last will and testament of any deceased person, letters of administration or executorship shall be granted by the said probate court when said court is in open session; and said letters of executorship or administration shall be signed by the said court, and certified by the clerk thereof.

**No. 34.—AN ACT RESPECTING EXECUTORS AND ADMINISTRATORS.<sup>1</sup>**

§ 1. **Letters: Who Shall Grant.**—SECTION 1. *Be it enacted, etc.,* That the probate court of each county ( and the clerks thereof, in vacation, subject to the confirmation or rejection of the probate court ) shall grant letters testamentary and of administration.

\* \* \*  
 § 2. **Where Granted.**—SEC. 3. Letters testamentary and of administration shall be granted in the county in which the mansion-house or place of abode of the deceased is situated. If he had no mansion-house or place of abode at the time of his death, and be possessed of lands, letters shall be granted in the county in which the land or a part thereof lies. If the deceased had no mansion-house or place of abode, and was not possessed of lands, letters may be granted in the county in which he died, or where the greater part of his estate may be. If he died out of the Territory, having no mansion-house, place of abode, or lands in this Territory, such letters may be granted in any county.

§ 3. **Venue.**—SEC. 4. All orders, settlements, trials and other proceedings intrusted by this act to the probate court, shall be had or made in the county in which the letters testamentary or of administration were granted.

\* \* \*  
 § 4. **Executors of Will.**—SEC. 9. After probate of any will, letters testamentary shall be granted to the persons therein appointed executors.

<sup>1</sup> Passed Sept. 29, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 111.)

If a part of the persons thus appointed refuse to act, or be disqualified, the letters shall be granted to the other persons appointed therein. If all such persons refuse to act, or be disqualified, letters of administration shall be granted to the person to whom administration would have been granted if there had been no will.

\* \* \* \* \*

§ 5. **Letters to be Revoked, When Will Found.**—SEC. 30. If, after letters of administration granted, a will of the deceased be found, and probate thereof granted, the letters shall be revoked; and letters testamentary or of administration with the will annexed shall be granted.

§ 6. **Same, if Will Set Aside.**—SEC. 31. If a will be found, and letters thereon granted, and the will be afterward set aside, the letters shall be revoked, and other letters granted of the goods unadministered.

§ 7. **Marriage of Executrix: Effect of.**—SEC. 32. If any executrix or administratrix marry, her husband shall not thereby acquire any interest in the effects of her testator or intestate, nor shall the administration thereby devolve upon him, but the marriage shall extinguish her powers, and her letters be revoked.

\* \* \* \* \*

§ 8. **Where More Than One Executor, etc.**—SEC. 42. If there be more than one executor or administrator of an estate, and the letters of part of them be revoked or surrendered, or a part die, those who remain shall do all the duties required by law respecting the estate.

§ 9. **Death or Resignation of All Executors, etc.**—SEC. 43. If all the executors or administrators of an estate die or resign, or their letters be revoked, in cases not otherwise provided for, letters of administration of the goods remaining unadministered shall be granted to those to whom administration would have been granted if the original letters had not been obtained, or the person obtaining them had renounced the administration; and the administrator shall perform the like duties and incur the like liabilities as the former executors or administrators.

\* \* \* \* \*

§ 10. **Non-residents.**—SEC. 58. Letters testamentary and of administration shall in no case be granted to a non-resident in this Territory; and when an executor or administrator shall become non-resident, the probate court having jurisdiction of the estate of the testator or intestate of such executor or administrator shall revoke his letters.

## ARTICLE II.

§ 11. **Duties of Executors, etc.**—SECTION 1. Every executor and administrator, immediately after receiving letters, shall collect and take into possession \* \* \* the evidences \* \* \* of title to any real \* \* \* estate, except the property reserved as the absolute property of the widow.

§ 12. **To Make Inventory.**—SEC. 2. He shall make an inventory of all the real \* \* \* estate of the deceased, describing the quantity, situation and title of the real estate, \* \* \*

§ 13. **Affidavit to be Annexed.**—SEC. 3. He shall annex to the inventory an affidavit stating that it is a full inventory and description of all the \* \* \* estate real \* \* \* and evidences \* \* \* of title of the deceased; \* \* \*

§ 14. **Where and When Inventory Filed.**—SEC. 4. The inventory, with the affidavit, shall be filed in the office of the clerk of the probate court within sixty days after the letters are granted.

\* \* \* \* \*

§ 15. **When No Heirs.**—SEC. 21. When an intestate has left no known heirs, the administrator shall also publish a notice for six weeks in some



newspaper, containing the name of the intestate, a description of his person, the time and place of his death, the place of his nativity, if known, and the appraised amount of his estate.

§ 16. **Actions by and Against.**—SEC. 22. Executors and administrators \* \* \* shall commence and prosecute all actions which may be maintained and are necessary in the course of his administration, and defend all such as may be brought against him.

§ 17. **Continued.**—SEC. 23. They shall prosecute and defend all actions commenced by or against the deceased at the time of his death and which might have been prosecuted or maintained by or against such executor or administrator.

\* \* \* \* \*  
§ 18. **If Testator Direct Estate Not to be Sold: Effect of.**—SEC. 37. If any testator direct his estate not to be sold, the same shall be reserved unless such sale be necessary for the payment of debts.  
\* \* \* \* \*

ARTICLE III.

§ 19. **Sale and Conveyance Under Will.**—SECTION 1. The sale and conveyance of real estate under a will shall be made by the acting executor or administrator with the will annexed, if no other person be appointed for that purpose by the will, or if such person fail to perform the trust.

§ 20. **Contract for Purchase.**—SEC. 2. If any person die, having purchased real estate, and shall not have completed the payment, nor devised such estate, nor provided for the payment by will, and the completion of such payment would be beneficial to the estate and not injurious to creditors, the executor or administrator, by order of the probate court, may complete such payments out of the assets in his hands, and such estate shall be disposed of as other real estate.

§ 21. **When May Sell.**—SEC. 3. If the court believe that after the payment of debts there will not be sufficient to pay for such real estate, the court may order the executor or administrator to sell all the rights, title and interest of the deceased therein.

§ 22. **Relinquishment.**—SEC. 4. If such real estate has been purchased from individuals, the court may, if they believe it advantageous to the estate, order the same to be relinquished to such individuals on the most advantageous terms that can be agreed upon.

§ 23. **Same: School Lands.**—SEC. 5. If such real estate shall have been purchased from any officer authorized by law to sell school lands, the probate court may, in its discretion, order the same to be relinquished; and in such cases the officer shall be authorized to accept of such relinquishment, and surrender the obligation of the deceased.

§ 24. **Mortgaged Estate—Redemption.**—SEC. 6. If any person die, having mortgaged any real estate, \* \* \* or owning any equity of redemption, and shall not have devised the same, or provided for the redemption of the same by will; the probate court, upon the application of any person interested, may order the executor or administrator to redeem such estate out of the personal assets, if it would be beneficial to such estate, and not injurious to the creditors.

§ 25. **Same: Sale of Interest.**—SEC. 7. If such redemption would injure the estate, or creditors, or there would not be assets to redeem such estate after payment of debts, the court shall order all the right, title and interest of the estate to such property to be sold at public sale.

§ 26. **How Relinquishment Made.**—SEC. 8. In all cases of relinquishment of the interest of the testator or intestate, under the provisions of the fourth and fifth sections of this article, and in all cases of the sale of the interest of the testator or intestate, under the third and seventh sections of this article, the executor and administrator shall be competent

by deed to make such relinquishment, or to convey to the purchaser all the right, title and interest the testator or intestate had in and to such real estate at the time of his death.

§ 27. **Petition for Sale.**—SEC. 9. If any person die, not having personal estate sufficient to pay his debts, the executor or administrator shall file a petition to the probate court, stating the facts, and praying for the sale of the real estate, or so much thereof as will pay the debts.

§ 28. **Lien of Judgment.**—SEC. 10. If such real estate be bound by the lien of a judgment, the executor or administrator shall state that fact in his petition, the date and amount of the judgment, and the name of the person in whose favor the same was rendered.

\* \* \* \* \*

§ 29. **Lien of Several Judgments.**—SEC. 12. If such real estate be bound by the lien of several judgments, the executor or administrator shall state that fact in his petition, the dates and amounts of such judgments, and the names of the persons in whose favor the same were rendered.

\* \* \* \* \*

§ 30. **What to Accompany Petition.**—SEC. 21. The petition, to be filed according to the provisions of the ninth section of this article, shall be accompanied by a true account of his administration, a list of the debts due to and by the deceased, and remaining unpaid, and an inventory of the real estate \* \* \* with its appraised value, and all the other assets in his hands; the whole to be verified by the affidavit of the executor or administrator.

§ 31. **When Creditors, etc., May Make Application.**—SEC. 22. If such executor or administrator do not make such application, any creditor or other person interested in the estate may make such application, giving twenty days notice to the executor or administrator.

§ 32. **Certain Duties of Executor.**—SEC. 23. Every such executor or administrator, on or before the first day of the term of the court at which he is notified that such application will be made, shall file with the clerk of the court perfect accounts, lists and inventories, made out and verified as those required to accompany a petition by himself. \* \* \*

§ 33. **Order for Sale: Notice of, etc.**—SEC. 24. When such petition and such accounts, lists and inventories shall be filed, the court shall order that all persons interested in the estate be notified thereof; and that unless the contrary be shown on the first day of the next term of the court, an order will be made for the sale of the whole, or so much of the real estate as will pay the debts of the deceased. Such notice shall be published for six weeks in some newspaper in this territory, or by ten handbills, to be put at ten public places in the county in which the land lies, at least twenty days before the term of the court at which any such order will be made, in the discretion of the probate court.

§ 34. **Court Shall Make Order for Sale.**—SEC. 25. Upon proof of publication, the court shall hear the testimony, and may, if necessary, examine all parties on oath, touching the application, and make an order for the sale of such real estate, or any part thereof, in this Territory, at public or private sale.

§ 35. **Sale in Certain Cases.**—SEC. 26. If any executor or administrator, or other person interested in any estate, file a petition, setting forth the facts, and describing the real and personal estate, and praying that the personal estate may be reserved, and real estate be sold for the payment of debts, the same steps shall be taken, and the same proceedings and publications had, as above directed upon a petition to sell real estate for the payment of debts; and the court may order the whole or any part of the personal estate to be reserved, and the real estate or any part of it may be sold at public or private sale.



§ 36. **To be Appraised.**—SEC. 27. Before any executor or administrator shall sell any real estate, or any interest therein, by order of any court, he shall have it appraised by three disinterested householders of the county in which it lies.

§ 37. **Affidavit of Appraisers.**—SEC. 28. Such appraisers shall make an affidavit that they will, according to the best of their abilities, view and appraise the estate to them shown; and they shall view and appraise the same, and deliver to the executor or administrator a certificate thereof under their hands.

§ 38. **Notice of Sale.**—SEC. 29. In all sales of real estate made by an executor or administrator, he shall cause a notice containing a particular description of the estate to be sold, and stating the time, place and terms of the sale, to be published in some newspaper in this Territory for four weeks, and shall put up a copy of such notice at ten public places in the county in which the sale is to be made, twenty days before the sale. If the probate court shall think it advisable, and so order, the publication of such notice in the newspaper may be dispensed with.

§ 39. **Where Sale to be Made.**—SEC. 30. All public sales of real estate made by order of any court for the payment of debts, shall be made at the court-house door of the county in which such estate is situated, at some day while the district or probate court is in session, and shall be conducted openly by auction.

§ 40. **Not to be Sold for Less than Three-fourths Appraised Value.**—SEC. 31. No real estate sold for the payment of debts shall be sold at private sale for less than three-fourths of its appraised value, nor shall the executor or administrator, directly or indirectly, become the purchaser of such real estate at public sale at less than three-fourths of its appraised value.

§ 41. **Report of Sale.**—SEC. 32. At the next term of the probate court after such sale, the executor or administrator shall make a full report of his proceedings, with the certificate of appraisement, and a copy of the advertisement; which report shall be verified by affidavit, stating that he did not, directly or indirectly, purchase such real estate, or any part thereof, or any interest therein, and that he is not interested in the property sold except as stated in the report.

§ 42. **Void, if not Approved.**—SEC. 33. If such report and proceedings of the executor or administrator be not approved by the court, his proceedings shall be void, and the court may order a new sale, upon which the same proceedings shall be had as upon the original order.

§ 43. **Valid, if Approved.**—SEC. 34. If such report be approved by the probate court such sale shall be valid, and the executor or administrator (or if he be the purchaser, the clerk of the county court) shall execute, acknowledge and deliver to the purchaser a deed, reciting the order of sale, and the court by which it was made, the certificate of appraisement, the advertisement, the time and place of sale, the report of the proceedings and the consideration, and conveying to the purchaser all the right, title and interest which the deceased had in the same.

§ 44. **What Deed Conveys.**—SEC. 35. Such deed shall convey to the purchaser all the right, title and interest which the deceased had in such real estate at the time of his death, discharged from liability of his debts, and shall be evidence of the facts therein recited.

§ 45. **Contract for Sale Made During Lifetime.**—SEC. 36. If any testator or intestate shall have entered into a contract in writing for the conveyance of any real estate, and shall not have executed the same in his lifetime, nor given power by will to execute the same, the other party wishing a specific execution of such contract may file a petition to the probate court, setting forth the facts, and praying that an order may be

made that the executor or administrator execute such contract specifically, by executing to him a deed for the same.

§ 46. **Affidavit.**—SEC. 37. Such petitioner shall annex to his petition an affidavit to the truth thereof, and stating that no part of such contract has been satisfied, except as stated in the petition.

§ 47. **Notice.**—SEC. 38. A notice of such application, and a copy of the petition, shall be served on the executor or administrator twenty days before the first day of the term at which it is to be made.

§ 48. **Court May Order Specific Performance.**—SEC. 39. If the court, after hearing all parties, believe that specific execution of such contract ought to be made, it shall make an order that the executor or administrator execute such contract specifically, saving to infants, married women, persons of unsound mind, and persons absent from the United States, the term of five years after their disabilities are removed, to appear and file their bill in chancery, to set aside such order for fraud or otherwise.

§ 49. **Deed.**—SEC. 40. When any order for the specific execution of a contract shall be made, the executor or administrator shall execute and deliver to the petitioner a deed, and acknowledge it in open court, conveying the estate according to the order, and expressing therein the saving of the rights above named, according to the order, and stating the date of the order, and the court at which it was made.

§ 50. **Deed: Effect of.**—SEC. 41. Such deed shall be as effectual as if it had been executed by the deceased.

§ 51. **Petition May Be Filed in District Court.**—SEC. 42. The party entitled to such specific performance of a contract may bring his petition in the district court in the first instance, and if it be brought in the first instance in the probate court, the executor, administrator, widow, or any heir or devisee of the estate, may appear and allege that he is unwilling to have the same tried in the probate court, and the court shall order the same to be certified to said district court.

§ 52. **Proceedings on.**—SEC. 43. If any such petition be thus filed or certified to the district court, it shall proceed thereon according to the practice of courts of chancery, and if it appears that such specific execution ought to be made, it shall make a decree for that purpose, in the same manner and with the same reservations as above required in cases of orders by the probate court.

§ 53. **If Executor, etc., Hold Bond for Conveyance: How Enforced.**—SEC. 44. If any executor or administrator hold a bond or any other instrument of writing on the testator or intestate, for the conveyance of any real estate which shall not have been completed within the lifetime of such testator or intestate, nor power by will given to execute the same, the executor or administrator shall proceed against his co-executor or co-administrator in the same manner as prescribed by this article in other cases; but if there be no such co-executor or co-administrator, he shall file his petition as herein provided, and the court shall appoint some suitable person to appear and manage the defense on the part of those interested, who shall have all the powers and perform the same duties required of executors or administrators in such case, by this article.

§ 54. **Sale May be Ordered on Certain Conditions.**—SEC. 45. If, upon the settlement of the accounts of any executor or administrator, it appears that the personal estate is not sufficient to satisfy all demands established against such estate, the probate court may make such order as it may think necessary for the sale of the real estate for that purpose; and the sale shall be conducted, and the same proceedings had in relation thereto, as is provided in this article in relation to the sale of real estate for the payment of debts upon the petition of the executor or administrator, creditor or other person interested.

\* \* \* \* \*

ARTICLE VI.

§ 55. **Non-resident Testator.**—SEC. 19. When administration shall be taken in this Territory on the estate of any person who, at the time of his death, was an inhabitant of any other State or country, his real estate found here, after the payment of his debts, shall be disposed of according to his last will, if he left any duly executed, according to the laws of this Territory; \* \* \* and if there should be no such will, his real estate shall descend according to the laws of this Territory, \* \* \*

\* \* \* \* \*

ARTICLE VIII.

§ 56. **Appeals.**—SECTION 1. Appeals shall be allowed from the decision of the probate court to the district court in the following cases: \* \* \* Sixth, on all orders for the sale of real estate; \* \* \* eleventh, on orders for the specific execution of contracts; \* \* \*

\* \* \* \* \*

**No. 35.—AN ACT TO AUTHORIZE THE ELECTION OF PROBATE JUDGES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That there shall be elected in each and every county three judges of probate, on the first Monday of June, A. D. 1850, and the said judges shall hold their office and discharge their duties as prescribed by law.

\* \* \* \* \*

<sup>1</sup> Passed May 18, 1850. (See Laws Or. Ter., Sess. 1850-51, p. 218.) In effect from date.

**No. 36.—AN ACT TO ESTABLISH A PROBATE COURT AND DEFINE ITS DUTIES AND POWERS.<sup>1</sup>**

§ 1. **Election of Judges.**—SEC. 1. *Be it enacted, etc.,* That there shall be elected \* \* \* in each of the original counties of this Territory, \* \* \* one judge of probate, \* \* \*

§ 2. **Style of Court.**—SEC. 2. That the court established by this act in each of the counties in this Territory shall be styled "The Probate Court of the County of —," with such jurisdiction as may be prescribed to such courts by the laws of the Territory.

\* \* \* \* \*

§ 3. **Powers of Judge.**—SEC. 8. The judge of probate for each county shall have and possess the following powers: Original jurisdiction in all cases relative to the probate of last wills and testaments, the granting of letters testamentary and of administration, and of revoking the same, the appointing or displacing guardians over orphan minors, spendthrifts and persons of unsound mind; \* \* \* to hear and determine all disputes and controversies respecting wills, the right to executorship, administration or guardianship or respecting duties \* \* \* of executors, administrators and guardians; \* \* \*

§ 4. **Jurisdiction.**—SEC. 9. His jurisdiction shall extend over the estates of all persons deceased, who were at the time of their decease inhabitants of or residents in the same county, and all who shall die without the Territory, leaving any estate to be administered within said county, or whose estate may afterwards be found in said county.

§ 5. **Estate of Person Imprisoned for Life.**—SEC. 10. He may, on the application of the party or parties interested, grant administration on the estate of any person who shall, by due course of law, be under sentence of

<sup>1</sup> Passed the Council Jan. 14, 1853. Passed the House of Representatives Jan. 29, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 11.)

imprisonment for life in the penitentiary, either by commutation of a previous sentence, or otherwise.

\* \* \* \* \*

§ 6. **Guardianship.**—SEC. 12. He shall have jurisdiction in all matters relating to the estates of such persons as are under guardianship, and the settlement of the same; and his jurisdiction shall extend to whatever else that may by law rightfully come under his cognizance; and when a case shall originally be within the jurisdiction of the probate courts of two or more counties, the court which shall first take cognizance thereof, by the commencement of proceedings, shall retain the same throughout, exclusively.

§ 7. **Process: Issue of.**—SEC. 13. He shall have the authority to issue whatever process may be necessary for the discharge of his official duties, and he shall have a seal of office.

§ 8. **Process: Service of.**—SEC. 14. Sheriffs and their deputies, coroners and constables shall serve and execute all legal warrants and processes by him directed to them.

§ 9. **To be Court of Record.**—SEC. 15. That the court established by this act shall be a court of record, and shall keep just and faithful records of its proceedings, and the judge thereof shall have the care and custody of all files, papers and books belonging to the same, and record all wills and other instruments in writing required by law to be put on record.

\* \* \* \* \*

§ 10. **Venue: When Judge Interested.**—SEC. 18. When any judge of probate shall be interested as heir, legatee, creditor, or debtor, or within the degree of kindred by means of which by law he might by any possibility be heir to any part of the estate of any person deceased, leaving property to be administered in his county, such estate shall be settled in the probate court of the most ancient adjoining county. If his interest commences at any time after he shall have regularly assumed jurisdiction of such estate, further proceedings therein shall be transferred to the probate court held in the most ancient adjoining county.

§ 11. **Whose Will to be Proved.**—SEC. 19. The will of any such deceased person may be there proven, or administration granted, as the case may require, and all subsequent proceedings had thereon in like manner as if the deceased had died in that county.

\* \* \* \* \*

§ 12. **Limitation for Probate of Will.**—SEC. 33. No probate of any last will, nor administration on the estate of any person deceased, shall be originally granted after the expiration of twenty years from his decease.

\* \* \*

§ 13. **When No Administration, Widow May Appropriate.**—SEC. 34. In all cases where no administration is granted, for reasons prescribed in the preceding section, the estate left by any person deceased shall become the property of his widow, if any, otherwise, of the next of kin, who may appropriate the same, without being chargeable as executor in his or her own wrong.

§ 14. **Contribution — Partition.**—SEC. 35. When any devisee, legatee or heir shall be required to refund any part of the estate received by him, for the purpose of making up the share, devise or legacy of any other devisee, legatee or heir, or where any heir of real estate, holding it as tenant in common, joint tenant, or coparcenary, shall want partition of the same, the probate court shall, upon petition of the party entitled to such distribution or partition, order distribution or partition (as the case may be) according to the rules prescribed by law and equity, and may enforce such order in the same manner as if made in the district court.

\* \* \* \* \*

§ 15. **Repeals.**—SEC. 39. "An act to establish a probate court and define its duties and powers," passed the Council September 3d, 1849; \* \* \* "An act authorizing the probate court to do county business," passed the House of Representatives September 28th, 1849, and all other acts and parts of acts inconsistent with this act, are hereby repealed.

§ 16. **When to Take Effect.**—SEC. 40. This act to be and remain in force from and after the 31st day of May, 1853.

## TITLE VIII.—DIVORCE.

### No. 37.—AN ACT RELATIVE TO DIVORCE, ALIMONY, AND FOR OTHER PURPOSES.<sup>1</sup>

§ 1. **Grounds For.**—SECTION 1. *Be it enacted, etc.,* That divorces from the bonds of matrimony may be obtained by petition under oath to the district court of the county in which the cause therefor shall have occurred, or in which the defendant shall reside or be found, or in which the plaintiff shall reside, if the latter be either the county in which the parties last cohabitated, or in which the plaintiff shall have resided six months before suit be brought, for the following causes: (1) Impotency at the time of marriage, continuing to the time of divorce. (2) Adultery since the marriage, remaining unforgiven. (3) Having a husband or wife living at the time of marriage. (4) Compulsion or gross fraud in procuring the marriage, if a rescission is sought in a reasonable time after the removal of the restraint, or discovery of the fraud. (5) Willful desertion of either party by the other without reasonable cause for the space of two years. (6) Conviction of felony or infamous crime. (7) Habitual gross drunkenness contracted since marriage. (8) Harsh and cruel treatment or personal indignities rendering life burdensome. (9) Voluntary neglect of the husband to provide the wife with a home and the common necessities of life for the space of six months.

§ 2. **Service of Summons.**—SEC. 2. If the defendant is not a resident of the Territory, or cannot, for any cause, be personally summoned, the court, or judge in vacation, may order notice of the pendency of the suit to be given in such manner and during such time as shall appear most likely to convey a knowledge thereof to the defendant without undue expense or delay; and if no such order be made, it shall be sufficient to publish such notice in a weekly newspaper printed in or nearest to the county in which the suit is pending, four weeks in succession; and if the defendant fail to appear and make defense at the first term after such notice, or after ten days personal service of summons, the evidence may be heard and the cause decided at that term; or compulsory process may be had to obtain an appearance or answer if it be necessary to the proper disposition of property or of children.

\* \* \* \* \*

§ 3. **Court to Dispose of Property.**—SEC. 4. In granting a divorce the court shall also make such disposition of the property of the parties as shall appear just and equitable, having regard to the respective merits of the parties and the condition in which they will be left by such divorce,

<sup>1</sup>Passed the Council Feb. 1, 1853. Passed the House of Representatives Feb. 1, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 49.)

and to the party through whom the property was acquired, and to the burdens imposed upon it for the benefit of children. And all property and pecuniary rights and interests, and all rights touching the children, their custody and guardianship, not otherwise disposed of or regulated by the order of the court, shall by such divorce be divested out of the guilty party and vested in the party at whose instance the divorce was granted. \* \* \*

\* \* \* \* \*

§ 4. **In Effect, When.**—SEC. 6. This act shall take effect from the time of its passage and shall apply to cases now pending, so as to expedite and modify the remedies given by previous laws.

## TITLE IX.—EXECUTIONS.

### No. 38.—AN ACT RELATIVE TO THE CURRENCY, AND SUBJECTING PROPERTY TO EXECUTION.<sup>1</sup>

§ 1. **Lawful Tender for Taxes, etc.**—SECTION 1. *Be it enacted, etc.,* That, in addition to gold and silver, treasury drafts, approved orders on solvent merchants, and good merchantable wheat at the market price, delivered at such places as it is customary for merchants to receive wheat at, shall be lawful tender for the payment of taxes and judgments rendered in the courts of Oregon Territory, and for the payment of all debts contracted in Oregon Territory, where no special contracts have been made to the contrary.

§ 2. **Minimum Price for Sale of Property on Execution.**—SEC. 2. *And be it further enacted,* That no property of any description whatever shall be sold on execution, or by virtue of any other process issued by any officer, for less than two-thirds of its value at the time of such sale, after deducting all incumbrances, except as hereinafter provided.

§ 3. **How Value Ascertained.**—SEC. 3. For the purpose of ascertaining the value of any property levied on by any officer, by virtue of any execution or order of sale founded on any judgment, order or decree, it shall be the duty of the officer making such levy to select two discreet householders, resident of the district where such levy may be made, to value said property; said officer making such levy shall be authorized to administer an oath to said appraisers to value said property at what the same is worth, clear of all incumbrances; and said appraisers shall make out, under their hands, a written statement of the value of said property, and hand the same to the officer making such levy, whose duty it shall be to append the same to his return.

§ 4. **When Unsold: Duty of Officer.**—SEC. 4. Whenever any property levied upon by virtue of an execution or order of sale shall remain unsold on the return day of such writ, it shall be the duty of the officer to return the same with an endorsement of his doings thereon, which return shall constitute a lien upon such property remaining unsold; \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Dec. 12, 1845. (See Laws Or. Ter., Sess. 1843-49, p. 33.) All conflicting acts and parts of acts repealed. In effect from date.



## TITLE X.—FRAUDS, STATUTE OF.

### No. 39.—AN ACT ENTITLED “AN ACT TO PREVENT FRAUDULENT CONVEYANCES.”<sup>1</sup>

§ 1. **Deeds of Gift, etc.**—SECTION 1. *Be it enacted, etc.;* That all deeds of gift, all conveyances, and all transfers or assignments, verbal or written, of goods, chattels, or things in action, made in trust for the use of the person making the same, shall be void as against the creditors, existing or subsequent, of such person.

§ 2. **Agreements, Contracts, etc.**—SEC. 2. In the following cases specified in this section, any agreement, contract and promise, shall be void unless such agreement, contract or promise, or some note or memorandum thereof, be in writing, and signed by the party to be charged therewith, or by some person thereunto by him lawfully authorized; that is to say: (1) Every agreement that by its terms is not to be performed in one year from the making thereof. \* \* \* (3) Every agreement, promise or undertaking made upon consideration of marriage, except mutual promises to marry. \* \* \*

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Jan. 21, 1853. Passed the Council Jan. 25, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 64.)

## TITLE XI.—INDIANS.

### No. 40.—AN ACT IN RELATION TO INDIANS.<sup>1</sup>

§ 1. **Preamble.**—WHEREAS, The Indians inhabiting this country are rapidly diminishing, being now mere remnants of once powerful tribes, now disorganized, without government, and so situated that no treaty can be regularly made with them; and

WHEREAS, By an act passed in July, 1843, this Government has shown its humane policy to protect the Indians in their rights; and

WHEREAS, The Indians are not engaged in agriculture, and have no use for, or any right to, any tracts, portions or parcels of land not actually occupied or used by them: therefore,

§ 2. **To be Protected in Occupancy.**—SECTION 1. *Be it enacted, etc.,* That the Indians shall be protected in the free use of such pieces of vacant land as they occupy with their villages or other improvements,

\* \* \* \* \*

<sup>1</sup> Passed Dec. 23, 1844. (See Laws Or. Ter., Sess. 1843-49, p. 70.)

## TITLE XII.—LAND CLAIMS.

No. 41.—AN ACT IN RELATION TO LAND CLAIMS.<sup>1</sup>

§ 1. **Who May Take.**—SECTION 1. *Be it enacted, etc.,* That all persons who have heretofore made, or shall hereafter make, permanent improvements upon a place, with a *bona fide* intention of occupying and holding the same for himself, and shall continue to occupy and cultivate the same, shall be entitled to hold six hundred and forty acres, and shall hold only one claim at the same time: *Provided*, A man may hold town lots in addition to his claim.

§ 2. **Form of.**—SEC. 2. That all claims hereafter made shall be in a square form, if the nature of the ground shall admit; and in case the situation will not permit, shall be in an oblong form.

§ 3. **Already Taken, Valid.**—SEC. 3. That in all cases where claims are already made, and in all cases where there are agreed lines between the parties occupying adjoining tracts, such claims shall be valid to the extent of six hundred and forty acres, although not in a square or oblong form.

§ 4. **Time for Improvements.**—SEC. 4. That in all cases where claims shall hereafter be made, such permanent improvements shall be made within two months from the time of taking up said claim, and the first settler or his successor shall be deemed to hold the prior right.

§ 5. **Who May Not Take.**—SEC. 5. That no person shall hold a claim under the provisions of this act except free males, over the age of eighteen, who would be entitled to vote if of lawful age, and widows: *Provided*, No married man shall be debarred from holding a claim under this act because he is under the age of eighteen.

§ 6. **Repealing Clause.**—SEC. 6. That all laws heretofore passed in regard to land claims be and the same are hereby repealed.

§ 7. **Extent of Possession.**—SEC. 7. That all persons complying with the provisions of this act shall be deemed in possession to the extent of six hundred and forty acres, or less, as the case may be, \* \* \*

<sup>1</sup> Passed June 25, 1844. (See Laws Or. Ter., Sess. 1843-49, p. 77.)

No. 42.—AN ACT TO AMEND THE ORGANIC LAW.<sup>1</sup>

§ 1. **Amendments to Land Law Submitted.**—SECTION 1. *Be it enacted by the House of Representatives of Oregon Territory, two-thirds of the members concurring therein,* That the following amendments to the land law be submitted to the people at the next general election:

§ 2. **For Record of Claims.**—SEC. 2. To strike out of article third, section first, the words "territorial recorder," and insert "clerk of the county court in the county where said claim or any part thereof may be located: *Provided*, That where any doubt exists in the mind of the claimant as to which of two counties his or her land may be in, he or she may record in either."

§ 3. **Former Records to be Abandoned.**—SEC. 3. Any person, before his or her claim shall be recorded, shall be required to make oath that he or she has abandoned all former records which she or he may have had to any other land claim in Oregon.

<sup>1</sup> Approved Dec. 23, 1847. (See Laws Or. Ter., Sess. 1843-49, p. 45.)



**No. 43.—AN ACT TO AMEND AND EXPLAIN THE ACT UPON LAND CLAIMS, PASSED AT THE LAST JUNE SESSION OF THIS HOUSE.<sup>1</sup>**

§ 1. **"Occupancy" Defined.**—SECTION 1. *Be it enacted, etc.*, That the word "occupancy" in said act shall be so construed as to require the claimant to either personally reside upon his claim himself, or to occupy the same by the personal residence of his tenant.

§ 2. **When Claim May be Taken.**—SEC. 2. That any person shall be authorized to take six hundred acres of his claim in the prairie and forty acres in the timber, and such parts of his claim need not be adjoining to each other.

§ 3. **Joint Claim.**—SEC. 3. That where two persons take up their claims jointly, not exceeding twelve hundred and eighty acres, they may hold the same jointly for the term of one year by making the improvements required by said act upon any part of said claim, and may hold the same longer than one year if they make said improvements within the year upon each six hundred and forty acres.

<sup>1</sup>Passed Dec. 24, 1844. (See Laws Or. Ter., 1843-49, p. 72.) The act referred to in the title is presumably "An act in relation to land claims." (See No. 41, *supra*.) The word "occupancy" does not appear in the said act, but "occupy" and "occupying" do.

**No. 44.—AN ACT TO SECURE TO THE HEIRS OF DECEASED PERSONS THE VALUE OF THEIR LAND CLAIMS.<sup>1</sup>**

§ 1. **Claim Considered Personal Property.**—SECTION 1. *Be it enacted, etc.*, That any person dying in the lawful possession of a land claim in this Territory, the land claim shall be considered as forming a part of the personal property of the estate of the deceased claimant, and as such, except as is hereinafter provided, shall be disposed of by the executors or administrators for the benefit of the legal heirs of the estate.

§ 2. **Widows' Rights.**—SEC. 2. The widow of a deceased person in the lawful possession of a land claim, may continue to reside upon or hold the same during her lifetime or widowhood; but, upon her decease or marriage, or at any time previously, with her consent, the land claim shall be disposed of as personal property, for the benefit of the heirs of her deceased husband.

\* \* \* \* \*

<sup>1</sup> Approved Feb. 15, 1849. (See Laws Or. Ter., Sess. 1843-49, p. 61.) In effect from date.

**No. 45.—AN ACT TO PROVIDE FOR THE RECORDING OF LAND CLAIMS IN THE COUNTY CLERK'S OFFICE IN THE SEVERAL COUNTIES IN OREGON TERRITORY.<sup>1</sup>**

§ 1. **Clerks to be Recorders.**—SECTION 1. *Be it enacted, etc.*, That the clerks of the several county courts in this Territory shall hereafter be recorders of all land claims within their respective counties.

\* \* \* \* \*

§ 2. **Town Plats.**—SEC. 3. He shall record all plots of towns and cities, and all plots and field notes of private claims.

§ 3. **Certificate of Record.**—SEC. 4. It shall be the duty of the recorder to give each person a certificate of the record of his claim, which certificate shall be endorsed upon the description of the boundaries of the tract of land presented for record; and in case the person applying for such certificate of record shall present duplicate plots and field notes of

<sup>1</sup> Approved Feb. 16, 1849. (See Laws Or. Ter., Sess. 1843-49, p. 66.) All conflicting acts or parts of acts repealed. In effect from date.

a survey of his claim, the filing of one of said plots and field notes shall be deemed a sufficient record, and the certificate of the recorder shall be endorsed upon the other retained by the claimant.

§ 4. **Affidavit Required.**—SEC. 5. It shall be the duty of the recorder to require each applicant for the record of a land claim to state whether the same is a partnership claim, and if so, he shall enter the names of the partners at length in the record and the certificate endorsed upon the description of the boundaries of said claim, and he shall further be required to state whether he intends to hold the said claim with or without occupancy, which fact shall be stated in the record and certified; and the recorder shall furnish the collector of taxes a list of the names of all persons holding claims without occupancy.

\* \* \* \* \*

**No. 46.—AN ACT TO PREVENT INJURIES TO THE POSSESSION OF SETTLERS ON PUBLIC LANDS.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, Doubts having arisen whether or not the land law of the late provisional government is in force: therefore,

§ 2. **Land Law of Provisional Government, in Force.**—SECTION 1. *Be it enacted, etc.,* That the land law of the late provisional government is hereby declared to be in force, according to the tenor and effect thereof; and any person who has complied or may hereafter comply with its provisions shall be taken and deemed to be in possession of every part of land included within his recorded boundary (provided that said land claim does not contain more than six hundred and forty acres), and be entitled to all the remedies provided by law; but no foreigner shall be entitled to the benefits of said act, hereby revived, who shall not have within six months after the passage of this act filed his declaration of intention to become a citizen of the United States.

§ 3. **Residence Necessary.**—SEC. 2. That so much of the above recited act as permits claimants thereunder to pay five dollars annually in place of occupancy or in case of absence from the Territory be and the same is hereby repealed; but where a claimant continues to improve upon or cultivate a land claim, it shall [not] be necessary for him to reside on his claim; but hereafter the neglect to reside upon or otherwise to cultivate and improve said claim for the space of six months shall be deemed an abandonment of said claim.

§ 4. **Persons Not Entitled to Take.**—SEC. 3. No person who is not a white male citizen of the United States, over the age of eighteen years, shall hereafter be entitled to take claims under the act hereby revived.

§ 5. **Probate Clerks to be Recorders.**—SEC. 4. The clerks of the probate courts shall be recorders of said claims within their counties. \* \* \*

§ 6. **Descent.**—SEC. 5. Land claims shall descend to and be inherited by the heirs-at-law of the claimant in the same manner as is provided by law for the descent of real estate.

\* \* \* \* \*

<sup>1</sup> Passed Sept. 12, 1889. (See Laws Or. Ter., Sess. 1850-51, p. 246.) All conflicting laws repealed. In effect from date.

**No. 47.—AN ACT TO PROVIDE FOR RECORDING LAND CLAIMS.<sup>1</sup>**

§ 1. **District Clerks to Record.**—SECTION 1. *Be it enacted, etc.,* That it is hereby made the duty of the clerks of the district courts of the several counties in this Territory to record land claims until the clerks of the probate courts are elected and qualified; \* \* \*

<sup>1</sup> Passed Sept. 26, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 164.) In effect from date.

§ 2. **Record in Another County: When Valid.**—SEC. 2. *And be it further enacted.* That in all cases in which there is no clerk of a district court in any county, the claimant shall be permitted to record his claim in the next nearest county where there is a clerk of said court; and such recording shall be good and valid in law.

\* \* \* \* \*

**No. 48**—AN ACT TO EXEMPT THE WIFE'S PORTION OF LANDS DONATED IN OREGON TERRITORY BY ACT OF CONGRESS, APPROVED SEPTEMBER 27TH, 1850, FROM THE DEBTS AND LIABILITIES OF HER HUSBAND.<sup>1</sup>

§ 1. **Wife's Interest Separate and Exempt.**—SECTION 1. *Be it enacted, etc.,* That all right and interest of the wife, both legal and equitable, in and to the land donated to settlers in Oregon Territory by an act of Congress, approved September 27th, 1850, both now and hereafter, be and hereby is secured to the sole and separate use and control of the wife, and such interests in said lands, both legal and equitable of the wife, and the rents and profits thereof, shall in nowise be made subject to or liable for the debts or liabilities of her husband, whether contracted before or after the passage of this act.

\* \* \* \* \*

<sup>1</sup> Passed the Council Jan. 15, 1852. Passed the House of Representatives Jan. 20, 1852. (See Laws Or. Ter., Sess. 1851-52, p. 64.) In effect from date.

## TITLE XIII.—LIENS OF MECHANICS.

**No. 49.**—AN ACT FOR ENFORCING THE LIENS OF MECHANICS AND OTHERS IN CERTAIN CASES.<sup>1</sup>

### ARTICLE I.

§ 1. **What Subject to.**—SECTION 1. Carpenters, joiners, brick and stone masons, plasterers, turners, painters, brick-makers, lumber merchants, and all others performing labor or furnishing materials for the construction or repair of any building, shall and may have a lien separately or jointly upon the building or buildings which they may have constructed or repaired, or for which they may have furnished materials of any description, to the extent of the value of any labor done or material furnished, or for both, where the amount shall exceed thirty dollars.

§ 2. **How Far Provisions Extend.**—SEC. 2. The provisions of this article shall only extend to work done or materials furnished on new buildings, or to contracts entered into with the owner of any building for repairs, and not to any contract made with the tenant.

\* \* \* \* \*

§ 3. **Claim to be Filed, etc.**—SEC. 5. When any person wishing to avail himself of the provisions of this article, whether his claim is due or not, shall file in the recorder's office of the county, at any time before the expiration of sixty days after the completion of the building or repairs, in this article specified, notice of his intention to hold a lien upon the

<sup>1</sup> Passed the House Jan. 31, 1851. Passed the Council Feb. 4, 1851. (See Laws Or. Ter. Sess. 1850-51, p. 167.) No enacting clause.

property declared by this article liable to such lien, for the amount due or to become due to him, specifically setting forth the amount claimed; and the recorder is hereby required to record such notice as soon as presented, \* \* \*

§ 4. **How Enforced.**—SEC. 6. Any person or persons having a lien under this article may enforce the same by filing a bill in chancery, in the district court of the county where the work was done or materials furnished, at any time within one year from the completion of the work or furnishing the materials; or, if a credit be given, from the expiration of such credit.

\* \* \* \* \*

§ 5. **Decree of Sale.**—SEC. 12. \* \* \* When the claims of the parties entitled to recover shall be ascertained, the court shall render a decree for the amount of each claim, respectively, against the owner of the building, and direct the house and interest of the employer in the lot, to be sold \* \* \*

§ 6. **To Bear Interest.**—SEC. 13. The amount due the claimants shall bear legal interest from the time the same shall have become due by the contract of the parties, and the purchaser of the property shall pay interest on the purchase money from the time of the sale.

\* \* \* \* \*

## TITLE XIV.—LIMITATIONS, STATUTE OF.

### No. 50.—AN ACT CONCERNING THE LIMITATION OF ACTIONS RELATING TO REAL PROPERTY.<sup>1</sup>

§ 1. **When Within Twenty Years.**—SECTION 1. No person shall commence an action for the recovery of any lands nor make an entry thereupon unless within twenty years after the right to make such entry or bring such action first accrued, or within twenty years after he, or those from, by or under whom he claims, shall have been seized or possessed of the premises, or shall have received the rents and profits of the same, or some part thereof, except as hereinafter provided.

§ 2. **How Time Computed in Certain Cases.**—SEC. 2. If such right or title accrued to an ancestor or predecessor of the person who brings the action or makes the entry, or to any other person from, by or under whom he claims, the said twenty years shall be computed from the time when the right or title so first accrued to such ancestor, predecessor or other person.

§ 3. **Disseizin—Heir or Devisee—Remainder or Reversion—Forfeiture or Breach of Condition, etc.**—SEC. 3. In the construction of this act the right to make an entry or bring an action to recover land shall be deemed to have first accrued at the times respectively hereinafter mentioned; that is to say: (1) Whenever any person shall be disseized, his right of entry or of action shall be deemed to have accrued at the time of such disseizin. (2) When he claims as heir or devisee of one who died seized, his right shall be deemed to have accrued at the time of such death, unless there is a tenancy by courtesy, or other estate, intervening after the death of such ancestor or deviser, in which case his right shall be deemed to accrue.

<sup>1</sup>Passed the House of Representatives Jan. 13, 1851. Passed the Council Jan. 17, 1851. (See Laws Or. Ter., Sess. 1850-51, p. 174.) No enacting clause.

when such intermediate estate shall expire, or when it would have expired by its own limitation. (3) When there is such an intermediate estate, and in all other cases where the party claims by force of any remainder or reversion, his right, so far as it is affected by the limitation herein prescribed, shall be deemed to accrue when the intermediate or precedent estate would have expired by its own limitation, notwithstanding any forfeiture thereof for which he might have entered at an earlier time. (4) The preceding clause shall not prevent any person from entering when entitled to do so by any forfeiture or breach of condition; but if he claims under such a title his right shall be deemed to have accrued when the forfeiture was incurred or the condition broken. (5) In all cases not otherwise provided for, the rights shall be deemed to have accrued when the claimant, or the person under whom he claims, first became entitled to the possession of the premises under the title upon which the entry or action is founded.

**§ 4. Within Five Years.**—SEC. 4. If any sole corporation shall be disseized, any of his successors may enter upon the premises or may bring an action for the recovery thereof at any time within five years after the death, resignation or removal of the person so disseized, notwithstanding the twenty years after such disseizin shall have expired.

**§ 5. Disabilities of Certain Persons.**—SEC. 5. If at any time when any right of entry or of action upon or for any lands shall first accrue as aforesaid, the person entitled to such entry or action shall be within the age of twenty-one years, or a married woman, insane, imprisoned, or absent from the Territory, such person or any one claiming from, by or under him may make the entry or bring the action at any time within five years after such disability shall be removed, notwithstanding the twenty years before limited in that behalf shall have expired.

**§ 6. Death During Disability.**—SEC. 6. If the person first entitled to make such entry or bring such action shall die during the continuance of any of the disabilities mentioned in the preceding section, and no determination or judgment shall have been had of or upon the title, right or action which accrued to him, the entry may be made or the action brought by his heirs or any other person claiming from, by or under him at any time within five years after his death, notwithstanding the said twenty years shall have expired.

**§ 7. Continued.**—SEC. 7. If at any time when such right of entry or of action shall first accrue the person entitled thereto shall be under any of the disabilities before mentioned and shall die before having recovered the premises, no further time for making such entry or bringing such action, beyond that hereinbefore prescribed, shall be allowed by reason of the disability of any other person.

**§ 8. Entry Not Necessarily Possession.**—SEC. 8. No person shall be deemed to have been in possession of any lands within the meaning of this act merely by reason of having made an entry thereon unless he shall have continued in peaceable possession of the premises for at least six months next after such entry, or unless an action shall be commenced upon such entry or seizin within two years after he shall be ousted or dispossessed of the premises.

**§ 9. If Action Abated.**—SEC. 9. If any action of which the commencement is limited by this act shall be abated by the death of any party thereto, or if after verdict for the demandant or plaintiff the judgment shall be arrested, or if judgment in any such action be given for the demandant or plaintiff, and the judgment shall be reversed for error therein, the demandant or plaintiff or any person claiming by, from or under him may bring an action for the same cause at any time within one year after the determination of the original action or after the reversal of the judgment.

§ 10. **Within Twenty Years.**—SEC. 10. No suit for the recovery of any lands shall be commenced by or in behalf of the people of this Territory unless within twenty years after the right or title of the people of the Territory first accrued, or within twenty years after the said people or those from or through whom they claim shall have been seized or possessed of the premises, or shall have received the rents and profits of the same or some part thereof.

## TITLE XV.—MARRIAGE.

### No. 51.—AN ACT AMENDATORY OF THE ACT REGARDING MARRIAGE.<sup>1</sup>

§ 1. **Who May Contract Marriage.**—SECTION 1. *Be it enacted, etc.,* That all males of the age of sixteen years and upwards, and all females of the age of twelve and upwards, shall be deemed competent to enter into the contract of marriage.

§ 2. **If Minors, Consent Necessary.**—SEC. 2. That when either of the parties about to enter in the marriage union shall be minors, the male under the age of twenty-one years, or the female under the age of eighteen, no person authorized to solemnize the rights of matrimony shall do so without the consent of the parent or guardian of such minor. \* \* \* *Provided, however,* That the want of such consent shall not invalidate such marriage.

\* \* \* \* \*

<sup>1</sup> Passed June 22, 1844. (See Laws Or. Ter., Sess. 1843-49, p. 80.) All conflicting acts and parts of acts repealed. The act referred to in the title cannot be found among those now in existence. (See Preface.)

### No. 52.—AN ACT TO AUTHORIZE SOLEMNIZING MATRIMONY.<sup>1</sup>

§ 1. **Who May Solemnize.**—SECTION 1. *Be it enacted, etc.,* That every ordained minister of the gospel, in regular standing, of any denomination, the supreme judge, all district judges, and justices of the peace, are hereby authorized to solemnize marriages, and have the same recorded according to law. \* \* \*

<sup>1</sup> Approved Dec. 12, 1845. (See Laws Or. Ter., Sess. 1843-49, p. 36.) In effect from date.

### No. 53.—AN ACT REGULATING MARRIAGES.<sup>1</sup>

§ 1. **Who May Contract Marriage.**—SECTION 1. *Be it enacted, etc.,* That male and female persons not nearer of kin than first cousins and not having a husband or wife living, may be joined in marriage: *Provided, always,* That male persons under the age of twenty-one years and female persons under the age of eighteen years shall first obtain the consent of their fathers, respectively; or in case of death or incapacity of their fathers, then of their mothers or guardians: *Provided, however,* That nothing in this act shall be construed so as to make the issue of any marriage illegitimate provided the person shall not be of lawful age.

§ 2. **Who May Solemnize.**—SEC. 2. That it shall be lawful for any minister of any religious society or congregation within this Territory, or for any judge, justice of the peace in his county, or for the several re-

<sup>1</sup> Passed the House of Representatives Dec. 18, 1851. Passed the Council Jan. 6, 1852. (See Laws Or. Ter., Sess. 1852-53, p. 74.) In effect from Date.



ligious societies, agreeable to the rules and regulations of their respective churches, to join together as husband and wife all persons not prohibited by this act.

§ 3. **Certificate of.**—SEC. 3. That a certificate of every marriage hereafter solemnized, signed by the judge, justice or minister solemnizing the same, shall be transmitted to the probate clerk of the county wherein the marriage was solemnized within five months thereafter, and recorded by said clerk in a book to be kept by him for that purpose.

\* \* \* \* \*

## TITLE XVI.—REVENUE.

### CHAPTER I.—IN GENERAL.

#### No. 54.—AN ACT RELATIVE TO THE COUNTY AND TERRITORIAL REVENUE FOR THE YEAR 1847.<sup>1</sup>

§ 1. **Who Shall Assess—Certain Exemptions.**—SECTION 1. *Be it enacted, etc.,* That the several sheriffs in their respective counties be and they are hereby appointed to proceed forthwith to assess, as the law directs, the taxable property in their respective counties, and make returns of the said assessment on or before the first day of March, A. D. 1848. The several sheriffs, as such assessors, shall ascertain by the best possible means who has paid a territorial or county tax in their respective counties for the year 1847; and such as satisfy said assessor, either by receipt of the collector or the oath of the party, that they have paid their tax for the year 1847, shall be exempt from assessment.

§ 2. **Equalization of Taxes.**—SEC. 2. It shall be the duty of the clerk of the county court, within ten days after the said assessor shall have returned his said assessment, to notify the judges of the county court any two of said judges shall form a quorum to examine said assessment and equalize the same as is now directed by law; and the said clerk shall within five days after said equalization proceed to make out and deliver to said sheriff a tax book, with the amount of taxes due from each person, \* \* \*

§ 3. **Collection of—Immigrants 1847 Excepted.**—SEC. 3. It shall be the duty of the sheriff of each county, immediately after receiving the tax book from the clerk of said county, to proceed to collect the taxes due in the same manner as prescribed by law for collecting taxes, and make returns of the same on or before the first day of June, 1848; also the amount of delinquencies in his county; \* \* \* *Provided, however,* That nothing in this act shall be construed so as to subject the property of emigrants who arrived in 1847 to taxation.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 28, 1847. (See Laws Or. Ter., Sess. 1843-49, p. 54.) All conflicting acts or parts of acts repealed. In effect from date.

#### No. 55.—AN ACT TO PROVIDE FOR ASSESSING AND COLLECTING COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>

§ 1. **Probate Court to Make Levy—What Subject to Taxation.**—SECTION 1. *Be it enacted, etc.,* That for the purpose of raising a revenue

<sup>1</sup> Passed Sept. 29, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 225.)

for county and territorial purposes, it shall be the duty of the probate court of each county in this Territory, each year, to levy a tax not to exceed the liability of the county, and in no case to exceed four mills on the dollar, on the property of all bodies corporate and politic; \* \* \* on all lands, town lots and out lots; \* \* \*

§ 2. **How Amount to be Determined.**—SEC. 2. That the probate courts shall, annually, at their regular session in September, or so soon thereafter as the assessment roll is filed, levy a percentage on all real and personal property as aforesaid, sufficient, when added to the amount that will probably be received by the county from other sources of revenue, to defray the current expenses of such county, and to liquidate its debts for the year. \* \* \*

§ 3. **Assessor to be Elected.**—SEC. 3. There shall be elected \* \* \* in the several counties in this Territory, a county assessor, \* \* \*

§ 4. **Duty of Assessors.**—SEC. 8. That immediately after the election and qualification of each assessor, he shall commence assessing all the taxable property subject to taxation within his county, and shall deliver to the probate court, on or before the first Monday of September thereafter, a full and complete assessment roll.

§ 5. **To Make Description of Property.**—SEC. 9. The assessor shall give a full description of all town lots in his county, as laid down in such town plat, the number of lot or part thereof, and valuation of the same; and all town lots not given in by the owners, it shall be the duty of the assessor to return the same as non-resident land.

§ 6. **How Taxed.**—SEC. 10. All town lots and personal property shall be taxed according to its true value in cash, to be determined by the assessor, \* \* \*

§ 7. **Omissions: How Corrected.**—SEC. 13. That whenever any assessor shall discover, during his assessment, any town lot, or personal property of any kind, subject to taxation, that was omitted by his predecessor, he shall enter the same upon his roll, and the name of the person to whom it belongs, if known; and the said property shall be taxed and collected as though it had been assessed the preceding year, and paid into the county treasury.

§ 8. **Collection of Taxes.**—SEC. 17. That it shall be the duty of the probate clerk, within twenty days after filing the assessment rolls, to make out two copies of the same, with the names of the owners of the property therein assessed, arranged in alphabetical order, under the seal of the probate court, in the name of the Territory, directed to the sheriff of said county, commanding him to collect the taxes charged in said duplicate, by demanding payment of the persons therein charged, at their most usual place of residence, or in any other place where they may be found, on or before the first Monday in October next ensuing; and on receiving full payment of the amount due from any person, he shall give a receipt in full for the amount paid, in words at full length, and for what year; and further, shall specify the number of lots so charged; and after once demanding payment, as aforesaid, he may, at his discretion, advertise and appoint times when he will meet each person in their respective townships or precincts to receive taxes.

§ 9. **Lien of Tax in Certain Case.**—SEC. 19. That any sheriff, in case of gross assessment of taxes upon any lot, upon application of any claimant or owner of any part thereof, either divided or undivided, to pay such part as he may be entitled to pay, such sheriff shall receive the same: *Provided*, The owner shall specify, by a map or memorandum of the survey.



and the balance of such tax and interest shall be a lien on the remainder of such land.

\* \* \* \* \*

§ 10. **Notice.**—SEC. 21. If no goods and chattels can be found, out of which to make the taxes charged on town lots, the sheriff shall give notice, in some weekly newspaper published in his county, or, if no such paper be there published, then in some county nearest thereto; also, by putting up four written notices in the most public places in the county, one of which shall be on the court house door; and it shall particularly set forth each town lot intended to be sold, at least four weeks previous to the day of sale, which shall take place annually on the third Monday in February, notifying all whom it may concern that he will, on the third Monday in February next ensuing the date of such notice, commence selling at the court house door all and singular the town lots in said county on which the taxes for the year or years are not paid by said day; and that such sale will continue from day to day, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon of each day, until all are offered for sale.

§ 11. **Notice: Affidavit of Publication.**—SEC. 22. The sheriff shall file with the clerk of the probate court the verification of the printer, that the advertisement above described has been published for the length of time required by law in said newspaper.

§ 12. **Sale of Property.**—SEC. 23. That after he has filed evidence of the publication of the notice required in the preceding section, the sheriff shall proceed, in pursuance thereof, on said third Monday in February, between the hours of nine and four o'clock of said day, to expose to sale each and every town lot on which the taxes are not paid, by the description and number of which they are designated on the duplicate, for the taxes and interest due thereon, and the cost for advertising and selling the same, or so much thereof as will sell for the amount due and chargeable thereon, to the highest bidder, for ready cash; such sheriff shall continue from day to day, between said hours, to expose the said lots to sale, until all shall be duly offered.

§ 13. **Purchaser's Title — Certificate of Purchase, etc.**—SEC. 24. That when any lot of land or part thereof shall be sold for the non-payment of taxes and costs, the sheriff shall execute to the purchaser a certificate of the purchase, in the name of the Territory of Oregon, of the lot of land so sold, as aforesaid, which certificate shall vest in the person to whom it is given all the right and title of the lawful claimant of the same. No sale of lots shall be valid under this section if the tax for which the same is sold shall have been paid prior to such sale; and the sheriff's receipt shall be evidence of that fact: *Provided, always,* That when the lot of minors, insane persons, or persons in confinement, and *feme sole*, be sold, the same shall be redeemable within one year after such disability shall have been removed.

§ 14. **Lands not Sold — How Tax Collected.**—SEC. 25. That all town lots which shall not be sold as above provided, and the taxes charged thereon still remain unpaid, such taxes and charges shall bear interest at the rate of six per centum per annum until paid, and the probate court, before the duplicate of the succeeding year is made out, shall examine the delinquent list returned by the sheriff, and strike out from it all lots on which the taxes had been paid, and correct all manner of errors which may exist, and see that the clerks make due return of such corrected list of former years, which they shall annex to the new duplicate next after its correction; and if any remain unpaid the same shall be collected by the sheriff of the current year, as hereinbefore directed.

§ 15. **Lien of Taxes.**—SEC. 26. That taxes are hereby made a lien on town lots upon which they may be due, in whosoever hands such lots may

come, and when any goods and chattels are sold to satisfy the payment of any tax, the sheriff shall apply it to that purpose, and should there be any overplus, he shall refund the same to the owner.

§ 16. **Sheriff's Return—Delinquent Taxes.**—SEC. 27. The sheriff, in his return to the precept mentioned, shall state fully and distinctly the payment made, by way of credit, to the property charged on the transcript of the assessment rolls, as aforesaid; the payments enforced by distress and sale of goods and chattels, and in like manner the sale of lots, or part thereof, and the person to whom, and the sum for which the same were sold; also the taxes remaining unpaid, designating particularly the lots remaining unsold, the names of persons delinquent in the payment of other taxes, and tax or property with which he is charged, and the cause of failure to enforce payment as commanded in the precept; and such other matters as are provided by this act to be by him done, and the truth of such return shall be verified by affidavit of the sheriff, to be taken before the clerk of the probate court; \* \* \*

§ 17. **Notice for Collection Delinquent Taxes.**—SEC. 28. That it shall be the duty of the probate clerks of the several counties to make out four copies of the list of delinquents, as returned by the sheriffs of their several counties; one of which they shall put up in some conspicuous place in their office, and shall keep the same up for twelve months; and shall cause the other three to be posted up in the most public places in the county, within ten days after receiving said return: *Provided, however,* It shall be lawful for any sheriff to proceed by distress and sale of goods and chattels, to collect any taxes returned delinquent, within twenty days after making such return.

§ 18. **Limitation for Collection.**—SEC. 29. That sheriffs shall have power to proceed in the collection of taxes due them for two years from the time at which they were bound to pay over to the county in each year, in the same manner as they would have done during their term of office; but this provision shall not be so construed as to authorize any sheriff to collect taxes by him returned delinquent after receiving credit therefor.

§ 19. **Property Omitted May be Assessed.**—SEC. 30. That each sheriff is required to assess a county and territorial tax on all town lots and personal property that may not have been assessed; and at the same time he makes return of the precept and list of delinquents, as required by this act, shall make and verify by affidavit a list of property by him assessed, and the taxes collected thereon; \* \* \* and it shall be the duty of the clerk to publish a list of the unassessed property that has been assessed, and the taxes collected thereon by said sheriff, in the same manner and at the same time that he publishes the delinquent list.

§ 20. **Property Improperly Assessed.**—SEC. 31. That when any sheriff discovers that any town lot has been assessed more than once for the same year, he shall credit the tax only really due, and make return of the balance as illegally assessed; \* \* \*

\* \* \* \* \*

§ 21. **Territorial Tax: Amount of.**—SEC. 43. That it shall be the duty of the probate court of each and every organized county, when they levy the county tax, to levy in addition thereto a tax of one-half mill per cent. on all taxable property within this Territory for territorial purposes, which shall be collected in the same manner and at the same time that the county tax is collected, and by the same officer.

\* \* \* \* \*

CHAPTER II.—SUPPORT OF COMMON SCHOOLS.

**No. 56.—AN ACT ESTABLISHING A SYSTEM OF COMMON SCHOOLS.<sup>1</sup>**

§ 1. **School Fund Established.**—SECTION 1. *Be it enacted, etc.,* That there hereby is constituted and established a fund, to be designated by the name of the common school fund, the income of which shall be appropriated to the support of common schools in the Territory of Oregon, in such manner as shall be pointed out by law.

§ 2. **How Constituted.**—SEC. 2. That the principal of all moneys \*  
\* \* from the sale of any land heretofore given, or which may hereafter be given, by the Congress of the United States to this Territory for school purposes, \* \* \* or in any other manner whatever, shall constitute an irreducible fund; the proceeds or interest accruing from which shall be annually divided among all the school districts in the Territory, proportionally to the number of children or youth in each between the ages of four and twenty-one years, for the support of common schools in said districts, and for no other use or purpose whatever.

§ 3. **School Lands—Taxation.**—SEC. 3. That all moneys accruing from the lease or rent of school lands, and also from a tax of two mills on the dollar, to be assessed and collected in the same manner as other Territorial taxes, shall be added to the interest on the school funds provided for in the preceding section, to be distributed annually with said interest, and in the same manner, amongst all the school districts in the Territory.

\* \* \* \* \*  
§ 4. **School Commissioner.**—SEC. 12. There shall be elected by the legal voters of the respective counties \* \* \* a school commissioner for each county, \* \* \*

\* \* \* \* \*  
§ 5. **Directors.**—SEC. 16. That there shall be three directors elected annually, \* \* \*

\* \* \* \* \*  
§ 6. **Powers of.**—SEC. 19. That the said board of directors, and their successors in office, shall be a body politic and corporate in law, and as such shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in any court of law or equity in this Territory; be capable of receiving any gift, grant, donation or devise, made to or for the said district, and may receive a deed of conveyance or lease for any land whereon to build a school house or houses, which lease or deed shall be made to said directors and their successors in office, or to the district; and in either case the corporate body hereby created shall be deemed the grantee or lessee, and shall hold the same to and for the sole use of such district. \* \* \*

\* \* \* \* \*

CHAPTER VII.

§ 7. **School Districts.**—SEC. 24. That the people of any town or neighborhood shall have power, until otherwise provided for by law, to form school districts and perform all acts and duties therein in accordance with the provisions of this act: *Provided*, That ten days' notice shall be given of such purposed organization by putting up written notices in the three most public places in the town or neighborhood where such district is proposed to be formed.

§ 8. **How Formed.**—SEC. 25. That it shall be the duty of the school commissioners of the several counties, before the first day of January.

<sup>1</sup> Passed Sept. 3, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 66.) In effect from date.

A. D. 1851, to lay off their respective counties into school districts in the manner most convenient for the population and different neighborhoods thereof, paying due regard to any school houses already erected, school districts already laid off, and other circumstances proper to be considered so as to promote the interests of all the inhabitants of the county and so as to include all the territory of the county; \* \* \*

\* \* \* \* \*

#### CHAPTER VIII.

§ 9. **School Meetings.**—SEC. 27. That there shall be hereafter a meeting in each school district \* \* \* annually, \* \* \* notice of the time and place of holding which meeting shall be posted up by the district clerk in at least three public places in the district ten days before such meeting; \* \* \* *Provided*, That the first annual meeting may be convened on notice given as herein provided by three legal voters of the district, \* \* \* It shall be lawful for a majority of the voters at such annual meeting to determine by vote upon the purchase or erection of a school house, or the purchase of a lot or lots on which to erect such house, and how much money shall be raised for such purchase, and the purchase of fuel; and for the building, repairing and furnishing any school house or school houses in their districts, which sums of money so voted shall be collected as hereinafter provided: *Provided*, That special meetings of the voters may be called in the district by the directors on giving ten days' notice as aforesaid, which notice shall also state the particular object or objects of the meeting, and such called meeting shall have power to transact all the business specified in said notice that a regular meeting of said voters could transact: *And provided*, That no tax shall be levied by the vote of such meeting unless the notice shall state specifically that such a tax is proposed to be levied, and the object of such tax.

§ 10. **Purposes.**—SEC. 28. That a majority of a lawfully convened district meeting shall have power to levy and collect a tax on all taxable property in the district, for the purpose of building a school house or houses, and for repairing, renting and furnishing such school house or houses, and for fuel, and also for the employment of a teacher or teachers, male or female, in the district, which tax shall be levied *ad valorem* on the assessment made by the county assessor for county and territorial taxes, and shall not be made to exceed the actual amount ordered by the aforesaid majority of the district meeting.

§ 11. **Levy of Tax.**—SEC. 29. That whenever the directors of any district shall determine on levying a tax, not exceeding twenty dollars in any one year, for repairing and furnishing any school house, or whenever any annual or special meeting of the district shall decide that a tax sufficient to build a school house or to employ a teacher shall be levied, as aforesaid, the clerk of the district shall apply to the county auditor, who, upon being furnished with the names of all the persons liable to taxation within such school district, shall furnish such director with an abstract of all the property within said district, and the said directors shall levy on all such property the amount of tax so agreed on by the meeting or by the directors, under the restrictions aforesaid.

\* \* \* \* \*

§ 12. **Delinquent Taxes: Collection of.**—SEC. 31. That the district treasurer to whom a tax duplicate shall have been delivered shall, within the time prescribed for the payment of such tax, in manner aforesaid, personally demand the same of the several persons charged therewith, if they be found within his district; and if such tax be not paid before the expiration of the time so prescribed, the said district treasurer may then collect the same by distress and sale of personal property, in the same manner as county collectors are authorized to do in the collection of territorial and county taxes; \* \* \* and if the tax so assessed

on real property shall remain unpaid for three months after the expiration of the time prescribed as aforesaid for the payment thereof, and if sufficient personal property belonging to such persons as cannot be found within the district whereof to make such tax by distress and sale, the district treasurer shall report such delinquent or delinquents to the auditor of the county, and the auditor, on being satisfied of the correctness of the proceedings, shall, on making out the Territorial taxes next thereafter, enter such delinquent tax in a separate column of such duplicate, to be collected as other taxes, \* \* \*

\* \* \* \* \*

**No. 57.—AN ACT AMENDATORY TO AN ACT ENTITLED "AN ACT TO PROVIDE FOR ASSESSING AND COLLECTING COUNTY AND TERRITORIAL REVENUE," PASSED SEPTEMBER 29, 1849.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* \* \* \*

\* \* \* \* \*

§ 2. **School Tax.**—SEC. 5. That for school purposes there shall be one mill on the dollar only assessed and collected for the year 1851.

\* \* \* \* \*

<sup>1</sup>Passed the House of Representatives Feb. 6, 1851. Passed the Council Feb. 7, 1851. (See Laws Or. Ter., Sess. 1850-51, p. 237.) In effect from date.

**No. 58.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT ESTABLISHING A SYSTEM OF COMMON SCHOOLS."<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the county commissioners of the several counties be and they are hereby required to perform the duties of the school commissioners in their respective counties.

\* \* \* \* \*

<sup>1</sup>Passed the Council Jan. 12, 1852. Passed the House of Representatives Jan. 15, 1852. (See Laws Or. Ter., Sess. 1851-52, p. 64.) All conflicting parts of acts repealed. In effect from date.

**TITLE XVII.—TERRITORIAL UNIVERSITY.**

**No. 59.—AN ACT CREATING THE OFFICE OF COMMISSIONER TO CONTROL, PROTECT AND SELL THE PUBLIC LANDS DONATED BY CONGRESS TO THE TERRITORY OF OREGON, FOR THE ESTABLISHMENT AND ENDOWMENT OF A UNIVERSITY, AND TO DEFINE HIS POWERS AND DUTIES.<sup>1</sup>**

§ 1. **Election of Commissioner.**—SECTION 1. *Be it enacted, etc.,* That there shall be elected by said Assembly on joint vote of both houses, a commissioner, whose title shall be the university land commissioner, \* \* \*

§ 2. **His Powers.**—SEC. 2. Said commissioner shall have full power and control over all lands, and the proceeds thereof, donated by Congress to this Territory for the establishment and endowment of a university, and for all purposes connected therewith may sue and be sued in his official capacity in any court of competent jurisdiction.

\* \* \* \* \*

<sup>1</sup>Passed the Council Jan. 16, 1852. Passed the House of Representatives Jan. 20, 1852 (See Laws of Or. Ter., Sess. 1851-52, p. 53.) In effect from date.

§ 3. **Improvements.**—SEC. 5. In all cases when improvements have been made upon said lands by any person or persons under color of any right or authority, it shall be the duty of said commissioner, as soon as may be, to appraise such improvements at their present actual value; and also, to appraise in like manner the lot or land exclusive of improvements, and to keep a record of any such appraisement: *Provided*, That no appraisement shall be made of any improvements commenced after the passage of this act.

§ 4. **When Deed to be Executed—How Deferred Payments Secured.**—SEC. 6. In case any person or persons claiming right to any of said lands so appraised, his, her or their legal representatives, shall pay to said commissioner the appraised value of said lands, or shall give a bond to said commissioner and his successors in office, with security to be approved of by said commissioner, on interest at seven per cent., for the amount of such appraised value, payable within one year from the date of such bond, and execute to said commissioner and his successors in office a mortgage on said lands to secure the payment on said bond, it shall be the duty of said commissioner to execute, in due form of law, and deliver to such person or persons, a deed in fee simple of such lot or parcel of land.

\* \* \* \* \*

**No. 60.—AN ACT TO AMEND AN ACT ENTITLED “AN ACT TO PROVIDE FOR THE SELECTION AND LOCATION OF TWO TOWNSHIPS OF LAND TO AID IN THE ESTABLISHMENT OF A UNIVERSITY.”<sup>1</sup>**

§ 1. **Commissioners Appointed.**—SECTION 1. *Be it enacted, etc.*, That Arnold Fuller, Jacob Martin and Harrison Linville be and they are hereby constituted a board of commissioners to locate and select two townships of land in accordance with the provisions of the tenth section of an act of Congress entitled “An act creating the office of surveyor general of public lands in Oregon, and to provide for the survey and make donations to the settlers of said public lands,” and in accordance with the provisions of the act to which this is an amendment.

§ 2. **Repealing Clause.**—SEC. 2. Section first of the above named act is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Jan. 28, 1853. Passed the Council Jan. 31, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 74.) In effect from date.

## TITLE XVIII.—WILLS.

**No. 61.—AN ACT RESPECTING WILLS.<sup>1</sup>**

§ 1. **Who May Make.**—SECTION 1. *Be it enacted, etc.*, That every person of twenty-one years of age and upwards, of sound mind, may by last will devise all his estate, real, personal and mixed, and all interests therein, saving to the widow her dower.

\* \* \* \* \*

§ 2. **When Married Woman May Make.**—SEC. 3. No married woman shall be capable of making a will unless she have power to do so by marriage settlement, or authority in writing executed by her husband before marriage.

<sup>1</sup> Passed Sept. 26, 1849. (See Laws Or. Ter., Sess. 1850-51, p. 274.)



**§ 3. How Will Executed and Attested.**—SEC. 4. Every will shall be in writing, signed by the testator, or by some person by his direction in his presence, and shall be attested by two or more competent witnesses subscribing their names to the will, in presence of the testator.

**§ 4. Other Person May Sign for Testator.**—SEC. 5. Every person who shall sign the testator's name to any will by his direction shall subscribe his own name as a witness to such will, and state that he subscribed the testator's name at his request.

**§ 5. How Will Revoked.**—SEC. 6. No will in writing, except in cases hereinafter mentioned, nor any part thereof, shall be revoked except by a subsequent will in writing, or by burning, cancelling, tearing or obliterating the same by the testator, or in his presence, and by his consent and direction.

**§ 6. Rights of Living Issue, Born Subsequent to Making of Will.**—SEC. 7. If, after making a will disposing of the whole estate of the testator, such testator shall marry and die, leaving issue by such marriage living at the time of his death, or shall leave issue of such marriage born to him after his death, such will shall be deemed revoked unless provisions shall have been made for such issue by some settlement, or unless such issue shall be provided for in the will, and no evidence shall be received to rebut the presumption of such revocation.

**§ 7. Revocation by Marriage.**—SEC. 8. A will made by an unmarried woman shall be deemed revoked by her subsequent marriage.

**§ 8. Bond, etc., for Conveyance by Testator not Deemed Revocation—Specific Performance.**—SEC. 9. A bond, covenant, or agreement made for a valuable consideration by a testator, to convey any property devised or bequeathed in any last will previously made, shall not be deemed a revocation of such previous devise or bequest, either in law or equity; but such property shall pass by the devise or bequest, subject to the same remedies on such bond, covenant or agreement, for the specific performance, or otherwise, against devisees or legatees, as might be had by law against the heirs of the testator, or his next of kin, if the same has descended to them.

**§ 9. Effect of Charge or Incumbrance on Estate.**—SEC. 10. A charge or incumbrance upon any real or personal estate, for the purpose of securing the payment of money or the performance of any covenant or agreement, shall not be deemed a revocation of any will relating to the same estate previously executed; the devises and legacies therein contained shall pass and take effect, subject to such charge or incumbrance.

**§ 10. Effect of Will as to Certain Persons not Named, etc.**—SEC. 11. If any person make his last will and die, leaving a child or children, or descendants of such child or children, in case of their death, not named or provided for in such will, although born after the making of such will, or the death of the testator, every such testator, so far as shall regard such child or children, or their descendants not provided for, shall be deemed to die intestate; and such child or children, or their descendants, shall be entitled to such proportion of the estate of the testator, real and personal, as if he had died intestate, and the same shall be assigned to them; and all the other heirs, devisees and legatees shall refund their proportionate part.

**§ 11. Effect of Advancements During Life.**—SEC. 12. If such child or children, or their descendants, shall have an equal proportion of the testator's estate bestowed on them in the testator's lifetime, by way of advancement, they shall take nothing by virtue of the provisions of the preceding section.

**§ 12. Effect of Death of Devisee Before Testator.**—SEC. 13. When any estate shall be devised to any child, grandchild or other relative of the testator, and such devisee shall die before the testator, leaving lineal descendants, such descendants shall take the estate, real and personal, as such devisee would have done in case he had survived the testator.

§ 13. **Destruction, etc., of Second Will Does not Necessarily Revive Former.**—SEC. 14. If, after making any will, the testator shall duly make and execute a second will, the destruction, cancelling or revocation of such second will shall not revive the first will, unless it appear by the terms of such revocation that it was his intention to revive and give effect to the first will, or unless he shall duly republish his first will.

§ 14. **Proof: Who Shall Take.**—SEC. 15. The probate court, or clerk thereof in vacation, subject to the confirmation or rejection of the court, shall take proof of last wills.

§ 15. **Venue.**—SEC. 16. If the testator has a mansion-house or known place of abode in any county, his will shall be there proved; if he have no place of residence and lands be devised, it shall be proved in the county where any part of the lands lie; and if he shall have no residence and there be no lands devised, the will shall be proved in the county in which the testator died, or if he died out of the Territory, then in any county.

\* \* \* \* \*

§ 16. **If Witnesses Dead, etc.: How Proved.**—SEC. 21. If it shall appear to the satisfaction of the court or clerk that all the subscribing witnesses are dead, insane or their residence unknown, the court or clerk shall take and receive such proof of the handwriting of the testator and subscribing witnesses to the will, and of such other facts and circumstances as would be sufficient to prove such will in a trial at law.

\* \* \* \* \*

§ 17. **Nuncupative Will.**—SEC. 23. No nuncupative will shall be good when the estate bequeathed exceeds the value of two hundred dollars, nor unless the same be proven by two witnesses who were present at the making thereof; nor unless it be proved that the testator, at the time of pronouncing the same, did bid some person present to bear witness that such was his will, or to that effect; nor unless said nuncupative will was made at the time of the last sickness, and at the dwelling house of the deceased, or where he had been residing for the space of ten days or more, except where such person was taken sick from home and died before his return.

\* \* \* \* \*

§ 18. **Nuncupative Will: How Proved.**—SEC. 25. No proof shall be received of any nuncupative will, unless it be offered within six months after speaking the testamentary words, nor unless the words, or the substance thereof, were reduced to writing within thirty days after they were spoken.

§ 19. **Nuncupative Will: Period When Must be Reduced to Writing—Proof, etc.**—SEC. 26. No probate of any nuncupative will shall be granted for fourteen days after the death of the testator; nor shall any nuncupative will be at any time proved, unless the testamentary words, or the substance thereof, be first committed to writing, and a citation issued, accompanied with a copy thereof, to call the widow or next of kin of the deceased, that they may contest the probate of such will if they think proper.

§ 20. **Where Wills Shall be Recorded.**—SEC. 27. All wills shall be recorded by the clerk of the probate court, in a book kept for that purpose, within thirty days after probate, and the originals shall be carefully filed in his office.

\* \* \* \* \*

§ 21. **How Recorded When Lands in Different Counties.**—SEC. 30. In all cases where lands devised by last will are situated in different counties, a copy of such will shall be recorded in the recorder's office in such county, within six months after probate.

§ 22. **Will May be Contested Within Five Years.**—SEC. 31. If any person interested in the probate of any will shall appear within five years



after the probate or rejection thereof, and by petition to the district court of the county contest the validity of the will, or pray to have the will proved which has been rejected, an issue shall be made up whether the writing produced be the will of the testator or not, which shall be tried by a jury, or if neither party require a jury, by the court.

§ 23. **Finding or Judgment Final.**—SEC. 82. The verdict of the jury, or the finding and judgment of the court, shall be final, saving to the court the right of granting a new trial as in other cases, and to either party an appeal, in matters of law, to the Supreme Court.

§ 24. **On Whom Binding.**—SEC. 83. If no person shall appear within the time aforesaid, the probate or rejection of such will shall be binding, saving to infants, married women, persons absent from the United States, or of unsound mind, a like period of five years after their respective disabilities are removed.

\* \* \* \* \*

§ 25. **Will Made in Other Countries, etc.: How Proved.**—SEC. 85. Any person owning real or personal estate in this Territory may devise or bequeath such property by last will, executed and proved, if real estate be devised according to the laws of this Territory, \* \* \* or of the country, State or Territory in which the will shall be proved.

§ 26. **Copies May be Recorded.**—SEC. 86. Authentical copies of such will and the probate thereof shall be recorded in the same manner as wills executed and proved in this Territory, and shall be admitted in evidence in the same manner and with like effect.

§ 27. **How Contested.**—SEC. 87. Any such will may be contested and annulled within the same time and in the same manner as wills executed and proved in this Territory.

§ 28. **Witness Having Beneficial Interest.**—SEC. 38. If any person has attested or shall attest the execution of any will to whom any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate other than or except charges in lands, tenements or hereditaments, for the payment of any debt or debts, shall be thereby given or made, such devise, legacy, estate, gift or appointment shall, so far only as concerns such person attesting the execution of such will, or any person claiming under him, be void, and such person shall be admitted as a witness to the execution of such will.

§ 29. **How Share Saved to Such Witness.**—SEC. 39. If such witness would be entitled to any share of the testator's estate in case the will should not be established, then so much of the estate as would have descended or would have been distributed to such witness shall be saved to him as will not exceed the value of the devise or bequest made to him in the will; and he may recover the same from the devisees or legatees named in the will, in proportion to and out of the parts devised and bequeathed to him.

§ 30. **In What Case Such Will Valid.**—SEC. 40. If the execution of such will be attested by a sufficient number of other competent witnesses as required by this act, then such devise, legacy, estate, interest, gift or appointment shall be valid.

§ 31. **Effect of Creditor as Witness.**—SEC. 41. If by any will any real estate be charged with any debt, any creditor whose debt is so charged has attested the execution of such will, every such creditor shall be admitted as a witness to the execution of such will.

\* \* \* \* \*

§ 32. **Estate for Life With Remainder.**—SEC. 46. If any person, by last will, devise any real estate to any person for the term of such person's life, and after his or her death to his or her children or heirs, or right heirs in fee, such devise shall vest an estate for life only in such devisee, and remainder in fee simple in such children.

§ 33. **"Heirs," etc., Not Necessary to Create Fee Simple.**—SEC. 47. In all devises of land or other estate in this Territory in which the words "heirs and assigns," or "heirs and assigns forever," are omitted, and no expressions are contained in such will whereby it shall appear that such devise was intended to convey an estate for life only, and no further devise be made of the devised premises to take effect after the death of the devisee to whom the same shall be given, it shall be understood to be the intention of the testator thereby to devise an absolute estate in the same, and shall convey an estate in fee simple to the devisee for all such devised premises.

§ 34. **When Contribution Necessary.**—SEC. 48. When any testator, in his last will, shall give any \* \* \* real estate to any person, and the same shall be taken in execution for the payment of the testator's debts, then all the other legatees, devisees and heirs shall refund their proportional part of such loss to such person from whom the bequest shall be taken.

§ 35. **How Contribution Enforced.**—SEC. 49. When any devisees, legatees or heirs shall be required to refund any part of the estate received by them for the purpose of making up the share, devise or legacy of any other devisee, legatee or heir, the district court shall, upon petition of the party entitled to such contribution, order distribution of such estate according to equity, and enforce such orders with like effect as decrees of courts of equity.

§ 36. **Term "Will."**—SEC. 50. The term "will," as used in this act, shall be so construed as to include all codicils as well as wills.

§ 37. **How Will to be Construed.**—SEC. 51. All courts and others concerned in the execution of last wills shall have due regard to the direction of the will, and the true interests and meaning of the testator in all matters brought before them.

\* \* \* \* \*

## DIVISION II.—SPECIAL LAWS.

### TITLE I.—COUNTIES.

#### CHAPTER I.—ISLAND COUNTY.

##### **No. 62.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF ISLAND.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Thurston county embraced within the following described boundaries, to wit: Commencing in the middle of Admiralty Inlet, at a point due east of Pilot Cove, thence down along the middle of Admiralty Inlet to the mouth of the same; thence north across the Straits of Juan de Fuca, and through the Canal de Arro, and along the northern boundary line of the United States to the summit of the Cascade Mountains; thence south along the summit of the Cascade Mountains to the northeast corner of King county; thence west to the place of beginning—be and the same is hereby constituted and organized into a separate county, to be known and called Island county.

§ 2. **Powers, etc.**—SEC. 2. That all the territory embraced within said boundaries shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in the Territory of Oregon, and entitled to elect the same officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> Passed the Council Dec. 22, 1852. Passed the House of Representatives Jan. —, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 46—Special Laws.) In effect from date.

#### CHAPTER II.—JEFFERSON COUNTY.

##### **No. 63.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF JEFFERSON.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Thurston county embraced within the following described boundaries, to wit: Commencing in the middle of Admiralty Inlet at a point due east of Pilot Cove; thence due west to the Pacific Ocean; thence north along the coast to the northern boundary line of the United States; thence east along said northern boundary line to the northwest corner of Island county; thence south along the western boundary of Island county to the southwest corner of the same; [thence] east along up Admiralty Inlet to the place of beginning—be and the same is hereby constituted and organized into a separate county, to be known and called Jefferson county, in honor of Thomas Jefferson, of Virginia.

§ 2. **Powers, etc.**—SEC. 2. That all the territory embraced within said boundaries shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in the Territory of Oregon, and entitled to elect the same county officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Dec. 21, 1852. Passed the Council Dec. 22, 1852. (See Laws Or. Ter., Sess. 1852-53, p. 43—Special Laws.) In effect from date.

## CHAPTER III.—KING COUNTY.

**No. 64.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF KING.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of Thurston county embraced within the following described boundaries, to wit: Commencing at the northeast corner of Pierce county, thence north along [the] summit of the Cascade Mountains to a parallel of latitude passing through the middle of Pilot Cove; thence from the point last aforesaid west along said parallel of latitude to the Pacific Ocean; thence south along the coast to a point due west of the head [of] Case's Inlet; thence from the point last aforesaid east to the head of Case's Inlet; thence east along the northern boundary line of Pierce county to the place of beginning—be and the same is hereby constituted and organized into a separate county, to be known and called King county, in honor of W. R. King, of Alabama.

\* \* \* \* \*

<sup>1</sup>Passed the House of Representatives Dec. 21, 1852. Passed the Council Dec. —, 1852. (See Laws Or. Ter., Sess. 1852-53, p. 41.—Special Laws.) In effect from date.

## CHAPTER IV.—LEWIS COUNTY.

**No. 65.—AN ACT TO CREATE AND ORGANIZE LEWIS COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of Oregon Territory lying north of the Columbia river and west of the Cowlitz, up to fifty-four degrees and forty minutes north latitude, be and the same is hereby created and organized into a separate county, by the name of Lewis county.

§ 2. **Powers, etc.**—SEC. 2. That all within the said boundaries shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in Oregon, and entitled to elect the same county officers as other counties are entitled to elect: *Provided, however*, That all the duties required to be performed by the sheriff of said county in assessing and collecting the revenue for the year 1846 shall be performed by the sheriff of Vancouver county.

\* \* \* \* \*

§ 3. **When to Take Effect.**—SEC. 5. This act to take effect and be in force from and after the next annual election.<sup>2</sup>

<sup>1</sup> Approved Dec. 21, 1845. (See Laws Or. Ter., Sess. 1843-49, p. 43.)

<sup>2</sup> Occurred first Tuesday in June, 1846. (See Laws Or. Ter., Sess. 1843-49, p. 98, Art. V.)

**No. 66.—AN ACT TO ALLOT AND DEFINE THE EASTERN BOUNDARY OF LEWIS COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the eastern boundary of Lewis county shall be located as follows: Commencing at a point on the north branch of the Columbia river, fifteen miles above the mouth of the Cowlitz river, thence north to the southern boundary of Thurston county.

\* \* \* \* \*

<sup>1</sup> Passed the House and Council Jan. 17, 1852. (See Laws Or. Ter., Sess. 1851-52, p. 30—Local Laws.) In effect from date.

**No. 67.—AN ACT TO DEFINE THE BOUNDARIES OF LEWIS COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the western line of Lewis county shall commence at the point on the Columbia river now established as the southeast corner of Pacific county; thence along the east line of Pacific county to its northeast corner; thence due north to the channel of the Chickeeles river; thence up the channel of said river to the mouth of Skookum Chuck river, to the summit of the Cascade Mountains; thence along the summit of the Cascade Mountains to a point due east of Mt. St. Helens; thence on a direct course to the east end of township line between townships Nos. 5 and 6; thence along said township line to the Columbia river; thence down the Columbia river to the place of beginning.

<sup>1</sup> Passed the House of Representatives Jan. 31, 1853. Passed the Council Feb. 1, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 40—Special Laws.)

CHAPTER V.—PACIFIC COUNTY.

**No. 68.—AN ACT TO CREATE AND ORGANIZE PACIFIC COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that part of Oregon Territory lying within the following described boundaries, viz.: Beginning at Cape Disappointment and running northerly along the Pacific coast twenty-five miles; thence due east thirty miles; thence due south to the Columbia river; thence down the middle of the channel of said river to the place of beginning—said described portion of territory lying within the present limits of Lewis county—be and the same is hereby created and organized into a separate county, by the name of Pacific county.

§ 2. **Powers, etc.**—SEC. 2. *Be it further enacted*, That said described portion of territory shall comprise said county for civil and military purposes, and shall be under the same laws, rules and regulations and restrictions as all other counties in Oregon Territory, and entitled to elect the same county officers that other counties are entitled to elect: *Provided*, That said county, for all judicial purposes within the jurisdiction of the district court, shall be and hereby is attached to Clatsop county until otherwise provided.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Feb. 3, 1851. Passed the Council Feb. 4, 1851. (See "Journal and Local" Laws Or. Ter., Sess. 1850-51, p. 38.) In effect from date.

**No. 69.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CREATE AND ORGANIZE PACIFIC COUNTY.<sup>1</sup>**

§ 1. **Detached from Clatsop.**—SECTION 1. *Be it enacted, etc.*, That all that part of the act to which this is an amendment which attaches Pacific county to Clatsop county for judicial purposes be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Passed the House and Council Jan. 28, 1853. (See Laws Or. Ter., Sess. 1852-53, p. 40—Special Laws.) In effect from date.

## CHAPTER VI—PIERCE COUNTY.

**No. 70.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF PIERCE.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Thurston county embraced within the following boundaries, to wit: Commencing at the mouth of river Nesqually, in the middle of the main channel thereof, thence north along the main channel of Puget's Sound, between Anderson's Island and the main land, to the head of Case's Inlet; thence due east to the middle of the west channel of the passage between Vashon's Island and the main land; thence south along up said channel to a point opposite to Point Defiance; thence east from the point last aforesaid up the middle of Commencement Bay, to the mouth of ——— river; thence up the middle of said stream to the mouth of the north fork of the same; thence up the middle of the main fork of said stream to the head of the same; thence due east to the summit of the Cascade range of mountains; thence south along the summit of said range of mountains to a parallel of latitude passing through the mouth of Michael's fork of the Nesqually river; thence, from the point last aforesaid, west along said parallel of latitude to the mouth of Michael's fork of the Nesqually river; thence down along the middle of the main channel of said river to the place of beginning—is hereby constituted and organized into a separate county, to be known and called Pierce county, in honor of Franklin Pierce, of New Hampshire.

§ 2. **Powers, etc.**—SEC. 2. That all the territory embraced within said boundaries shall compose a county for civil and military purposes, and shall be subject to the same laws, rules, regulations and restrictions as all other counties in the Territory of Oregon, and entitled to elect the same county officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Dec. 21, 1852. Passed the Council Dec. 22, 1852. (See Laws Or. Ter., Sess. 1852-53, p. 44—Special Laws.) In effect from date.

## CHAPTER VII.—THURSTON COUNTY.

**No. 71.—AN ACT TO CREATE AND ORGANIZE THURSTON COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That [all that portion of Oregon Territory] lying within the following described boundaries, viz.: Beginning at the northwest corner of Pacific county and running along the northern boundary line of said county to the northeast corner thereof; thence continuing a due east course to the summit of the Cascade range of mountains; thence along the summit of said range in a northerly direction to the boundary line between the United States and the British possessions; thence in a westerly direction along said boundary line to the Pacific Ocean; thence in a southerly direction along the coast to the point of beginning.

§ 2. **Powers, etc.**—SEC. 2. *Be it further enacted,* That said described portion of the Territory shall comprise said county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all counties in Oregon Territory, and entitled to elect the same county officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> Passed the House of Representatives Dec. 17, 1851. Passed the Council Jan. 12, 1852. (See Laws Or. Ter., Sess. 1851-52, p. 19—Local Laws.) In effect from date.

CHAPTER VIII.—VANCOUVER OR CLARKE COUNTY.

**No. 72.—AN ACT TO CHANGE THE NAME OF VANCOUVER COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of the county of Vancouver be and hereby is changed to Clarke.

§ 2. SEC. 2. That all acts or parts of acts coming within the purview of this act are hereby repealed.

<sup>1</sup> Passed Sept. 8, 1849. (See "Journal and Local Laws" Or. Ter., 1850-51, p. 54.) In effect from date. The act creating Vancouver county cannot be found among the laws now in existence. (See Preface.)

TITLE II.—DIVORCE.

CHAPTER I.—MORIAS.

**No. 73.—AN ACT TO DIVORCE MARY MORIAS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That Mary Morias be and she is hereby divorced from her husband, Francois Morias, and the bonds of matrimony heretofore existing between the aforesaid Mary Morias and Francois Morias are hereby dissolved; and the said Mary Morias is hereby reinstated in all the privileges of an unmarried woman.

\* \* \* \* \*

<sup>1</sup> Passed Dec. 12, 1845. (See Laws Or. Ter., Sess. 1843-49, p. 28.) In effect from date.

CHAPTER II.—SWEET.

**No. 74.—AN ACT TO GRANT ELIZABETH S. SWEET A DIVORCE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony subsisting between Elizabeth S. Sweet and Chas. B. Sweet be and they are hereby dissolved, and the said Elizabeth divorced from all obligations of said marriage contract, and her name changed to Elizabeth Moore.

\* \* \* \* \*

<sup>1</sup> Passed Dec. 28, 1847. (See Laws Or. Ter., Sess. 1843-49, p. 48.) In effect from date.

CHAPTER III.—BROOKS.

**No. 75.—AN ACT TO DIVORCE JOHN P. BROOKS FROM HIS WIFE, MARY ANN.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, John P. Brooks has petitioned the House of Representatives of Oregon Territory, praying for a divorce from his wife, Mary Ann; and

WHEREAS, Said body, upon mature investigation, have found the said

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<sup>1</sup> Passed Feb. 16, 1849. (See Laws Or. Ter., Sess. 1843-49, p. 68.) In effect from date.

Mary Ann unfit for the further continuance of the marriage relations, by reason of a constitutional defect: therefore,

§ 2. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony now existing between John P. Brooks and Mary Ann, his wife, be and the same are hereby dissolved.

§ 3. **Declaration of Lien.**—SEC. 2. That the said Brooks shall pay over to said Mary Ann, his wife, the sum of five hundred dollars; and this act shall be and operate as a lien upon the estate of the said John P. Brooks, both real and personal, until the same shall be paid.

\* \* \* \* \*

#### CHAPTER IV.—MAYNARD.

**No. 76.**—AN ACT TO PROVIDE FOR THE DISSOLUTION OF THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN D. S. MAYNARD AND LYDIA A. MAYNARD, HIS WIFE.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between D. S. Maynard and Lydia A. Maynard be and the same are hereby dissolved.

<sup>1</sup>Passed the House of Representatives and Council Dec. 22, 1852. (See Laws of Or. Ter., Sess. 1852-53, p. 24—Special Laws.)

#### CHAPTER V.—MARVIN.

**No. 77.**—AN ACT TO DIVORCE SUSAN MARVIN FROM HER HUSBAND, MATTHIAS MARVIN.<sup>1</sup>

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony now existing between Susan Marvin and her husband, Matthias Marvin, be and the same are hereby dissolved, annulled and made absolutely void.

§ 2. **Award of Issue.**—SEC. 2. That aforesaid Susan shall be and hereby is allowed to take and keep Herscilia, the issue of said marriage, until such time as the said Herscilia shall arrive at the age of fourteen years, at which said time the said Herscilia shall be allowed to choose a guardian.

\* \* \* \* \*

<sup>1</sup>Passed the Council Jan. 25, 1853. Passed the House of Representatives Jan. 31, 1853. (See Laws Or. Ter., Sess. 1852-53—Special Laws, p. 25.)



## DIVISION III.—LAWS OF TERRITORY OF IOWA, 1839.

## TITLE I.—ARBITRATION.

**No. 78.—AN ACT CONCERNING REFERENCE TO ARBITRATION, BY AGREEMENT BEFORE A JUSTICE OF THE PEACE; OR TO REFEREES, BY AGREEMENT BEFORE THE DISTRICT COURT.<sup>1</sup>**

**§ 1. What Controversies Subject to.**—SECTION 1. All controversies which might be the subject of a personal action at law, or of a suit in equity, may be submitted to the decision of one or more arbitrators in the manner provided in this act.

**§ 2. Judgment and Execution.**—SEC. 9. \* \* \* When an award is accepted and confirmed by the court, judgment shall be rendered thereon in like manner as upon a like award made by referees appointed by a rule of court, and execution shall issue accordingly.

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 49.)

## TITLE II.—ATTACHMENT.

**No. 79.—AN ACT ALLOWING AND REGULATING WRITS OF ATTACHMENT.<sup>1</sup>**

**§ 1. When Issued—What Affidavit Must State.**—SECTION 1. *Be it enacted, etc.,* That when any action founded on contract shall have been commenced, or shall be about to be commenced, in the district court in any county in this Territory, either by summons or *capias*, a writ of attachment shall be issued by the clerk of said court, upon an affidavit being filed in his office containing the following requisites: *First:* It must state that something is due from the defendant to the plaintiff, and as nearly as practicable the exact amount. *Second:* It must state that (as deponent verily believes) the said debtor is a non-resident of the Territory, or that he is in some manner about to dispose of or remove his property with intent to defraud his creditors, or that he has absconded so that the ordinary process cannot be served upon him.

**§ 2. How Executed.**—SEC. 6. The officer to whom the writ of attachment is directed shall, by virtue thereof, in presence of two citizens of the Territory possessing the qualifications of jurors, attach any of the lands \* \* \* of the said debtor which may be found in his county, in whose hands soever the same may be, or so much thereof as shall be sufficient to pay the debt sworn to as aforesaid, together with the interest and costs of suit.

**§ 3. Inventory.**—SEC. 7. The said officer, together with the two citizens aforesaid (who shall be under oath or affirmation to be by him administered) shall make a true inventory and appraisement of all the property so by him attached, which inventory and appraisement shall be signed by the officer and citizens aforesaid, and shall be annexed to and

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 52.)

returned with said writ. The property attached shall be bound from the time of serving the writ as aforesaid.

\* \* \* \* \*

§ 4. **When Service to be by Publication.**—SEC. 20. If the process by which the suit is commenced should not be served upon the defendant, and a voluntary appearance be not made by him before the end of the term at which the writ of attachment aforesaid was made returnable, immediately after such term the clerk who issued said writ shall make out an advertisement in which he shall state the names of the parties, the time when, from what court, and for what sum said writ of attachment issued, and that unless the defendant appear and plead before the next term of the court, judgment will be entered and the property so attached will be sold to satisfy the same.

§ 5. **How Published.**—SEC. 21. Such advertisement shall be delivered to the plaintiff or his attorney, on demand, who within thirty days thereafter shall cause the same to be published in some newspaper printed in the Territory, most convenient to the place where the court is held, and such publication shall be continued successively for four weeks at least.

\* \* \* \* \*

§ 6. **Non-appearance — Judgment.**—SEC. 24. If after the publication prescribed in section twenty-one the defendant do not appear as therein required, the final judgment thereupon entered shall be conclusive so far as regards the property attached, \* \* \*

§ 7. **Sale of Property.**—SEC. 25. After judgment in such cases, the property attached shall be advertised and sold in the same manner as is provided for property levied on by writ of *fiery facias*, \* \* \*

\* \* \* \* \*

§ 8. **Writ: When may be Served on Sunday.**—SEC. 30. The writ of attachment, as authorized by this act, may be issued and served on Sunday: *Provided*, In addition to the requisites prescribed in section one, the affidavit shall state that it would be unsafe to delay proceedings till Monday.

\* \* \* \* \*

§ 9. **Writ: How Defects Cured.**—SEC. 32. No writ of attachment shall be quashed, nor the subsequent proceedings deemed invalid, on account of any defect in the writ which would not have been fatal in a summons, nor on account of any insufficiency in the affidavit or attachment bond, provided a sufficient affidavit or bond shall be filed within a reasonable time after objections have been taken to those originally filed.

§ 10. **Joint Debtors.**—SEC. 33. When two or more are jointly bound or indebted, the writ of attachment provided for by this act may be issued against the separate or joint estates, or both, of such joint debtors, or any of them, in the same manner as provided for in other cases.

\* \* \* \* \*

### TITLE III.—COMMON SCHOOLS.

#### No. 80.—AN ACT PROVIDING FOR THE ESTABLISHMENT OF COMMON SCHOOLS.<sup>1</sup>

§ 1. **Establishment of.**—SECTION 1. *Be it enacted, etc.*, That there shall be established a common school or schools in each of the counties of this Territory. \* \* \*

<sup>1</sup>See No. 23. (See also Laws Iowa, Ter. First Sess., 1839, p. 180.)

§ 2. **Districts: How Formed.**—SEC. 2. The county board shall from time to time form such districts in their respective counties, whenever a petition may be presented for that purpose by a majority of the voters resident within such contemplated district.

§ 3. **Trustees.**—SEC. 3. The legal voters in each district, \* \* \* may \* \* \* elect three trustees, \* \* \*

§ 4. **Duties of Trustees.**—SEC. 4. It shall be the duty of the trustees \* \* \* to lease all land belonging to the district; \* \* \*

§ 5. **Powers of Trustees.**—SEC. 6. It \* \* \* shall be lawful for the said trustees, in the name and for said district, to purchase or receive as a donation, and hold in fee simple, any property, real or personal, for the use of the said school district; and they may prosecute or defend any suit or suits relative to the same; \* \* \*

§ 6. **Taxes: How Collected.**—SEC. 9. That it shall be the duty of the collector of each school district to collect all the moneys belonging to or due to the same, when directed so to do, and to collect such taxes as, by the vote of the district, shall be levied; \* \* \*

§ 7. **Taxes: How Assessed.**—SEC. 10. That it shall be the duty of the assessor of each school district to assess all such property lying within and belonging to the inhabitants of said district as he may be directed to assess by a majority of the voters in such district, and to make return of the same, within thirty days after such assessment, to the trustees of said district.

§ 8. **Taxes: How Levied.**—SEC. 12. That the legal voters within any school district lawfully assembled shall have the powers, to wit, \* \* \* to levy a tax, in conformity with the provision of the tenth section of this act, either in cash or good merchantable produce at cash price, upon the inhabitants of their respective districts, not exceeding one half per centum, \* \* \*

§ 9. **Taxes: Warrant for Collection.**—SEC. 14. That it shall be the duty of the trustees, or a majority of them, to furnish the collector with a sufficient warrant to collect such taxes as may be so levied, which warrant shall be his authority for collecting the same.

## TITLE IV.—CONSTRUCTION OF STATUTES.

### No. 81.—AN ACT CONCERNING THE CONSTRUCTION OF STATUTES.<sup>1</sup>

§ 1. **How Promulgated.**—SECTION 1. *Be it enacted, etc.,* That all laws shall be promulgated by being printed and published under the authority of the Governor and Legislative Assembly in such manner as they shall direct.

§ 2. **Public Acts.**—SEC. 2. All acts of incorporation shall be deemed public acts \* \* \*

§ 3. **Statutes to Take Effect Uniformly.**—SEC. 3. Every statute shall take effect at the same time throughout the Territory.

§ 4. **When to Take Effect.**—SEC. 4. Every statute which does not expressly prescribe the time when it shall go into operation shall take effect

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 73.)

on the thirtieth day next after the day on which it shall have been approved by the Governor, or otherwise passed and approved conformably to the provisions of the constitution.

**§ 5. Rules for Construction.**—SEC. 5. In the construction of all statutes, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Legislature, or repugnant to the context of the same statute; that is to say:

**Words and Phrases.**—*First.* All words and phrases shall be construed and understood according to the connection and approved usage of the language, but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

**Singular Number.**—*Second.* Every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing, and every word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things; and every word importing the masculine gender only may extend and be applied to females as well as males.

**Joint Authority.**—*Third.* All words purporting to give a joint authority to three or more public officers, or other persons, shall be construed as giving such authority to a majority of such officers, or other persons, unless it shall be otherwise expressly declared in the law giving the authority.

**"Grantor"—"Grantee."**—*Fourth.* The word "grantor" may be construed as including every person from or by whom any freehold estate or interest passes in or by any deed, and the word "grantee" as including every person to whom any such estate or interest passes in like manner.

**"Highway."**—*Fifth.* The word "highway" may be construed to include county bridges, and it shall be equivalent to the words "county way," "county road," "common road," and "Territorial road."

**"Inhabitant."**—*Sixth.* The word "inhabitant" may be construed to mean a resident in any city or town.

**"Insane Person."**—*Seventh.* The words "insane person" shall be construed to include every idiot, *non-compos*, lunatic, and distracted person.

**"Issue."**—*Eighth.* The word "issue," as applied to the descent of estates, shall be construed to include all the lawful lineal descendants of the ancestor.

**"Land"—"Real Estate."**—*Ninth.* The words "land" or "lands," and the words "real estate," shall be construed to include lands, tenements and hereditaments, and all rights thereto and interest therein.

**"Month"**—*Tenth.* The word "month" shall be construed to mean a calendar month, unless otherwise expressed, and the word "year" alone shall be equivalent to the expression "year of our Lord."

**"Oath"—"Sworn."**—*Eleventh.* The word "oath" shall be construed to include affirmations in all cases where by law an affirmation may be substituted for an oath, and in like cases the word "sworn" shall be construed to include the word "affirm."

**"Person."**—*Twelfth.* The word "person" may extend and be applied to bodies politic and corporate as well as to individuals.

**"Seal."**—*Thirteenth.* In all cases in which the seal of any court or public office shall be required by law to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to include an impression of such official seal made upon the paper alone, as well as an impression made by means of a wafer or of wax affixed thereto.

**"State."**—*Fourteenth.* The word "State," when applied to the different parts of the United States, shall be construed to extend to and include

the District of Columbia and the several Territories so called, and the words "United States" shall be construed to include the said District and Territories.

**"Town."**—*Fifteenth.* The word "town" may be construed to include all cities and districts, unless such construction would be repugnant to the provisions of any act specially relating to such cities or districts.

**"Will."**—*Sixteenth.* The term "will" shall be construed to include codicils as well as wills.

**"Written."**—*Seventeenth.* The words "written" and "in writing" may be construed to include printing, engraving, lithography and any other mode of representing words and letters: *Provided, however,* That in all cases where the written signature of any person is required by law it shall be the proper hand writing of such person, or, in case he is unable to write, his proper mark.

## TITLE V.—CONVEYANCES—DONATIONS.

### No. 82.—AN ACT CONFIRMING GRANTS OF PROPERTY MADE FOR THE ENCOURAGEMENT OF EDUCATION, AND FOR OTHER PURPOSES.<sup>1</sup>

§ 1. **For What Purposes Valid.**—SECTION 1. *Be it enacted, etc.,* That all gifts and grants heretofore made of land for the erection of a school-house, a house for divine worship, and for burying the dead, where such gift or grant of land shall not exceed ten acres for a church or burying ground, shall be held valid in law to the use of the person or persons or religious society therein named, for the purpose of education, for divine worship, or for the interment of the dead, and none other: *Provided,* That such gifts and grants shall be recorded in the county where such lands may lie, within twelve months from the passage of this act.

§ 2. **How Made.**—SEC. 2. When any person shall hereafter deem it proper to make a donation or grant of land for the purpose of erecting a house for divine worship, a house for education, or for the interment of the dead, such deed or gift or grant shall be made and executed to the county commissioners of the proper county, and their successors in office, in trust and for the use of the persons, society or collection of people therein named, which shall be held and used by such society, persons or body of people as therein directed, for the sole use of education, divine worship, and interment of the dead, and none other; which deed shall be recorded in the recorder's office of the proper county within twelve months after the execution of the same: *Provided,* That in no case shall such grant for the erection of a house for divine worship exceed in quantity ten acres of land: *Provided always,* That no such gift or grant as aforesaid shall be considered good or valid when made to defraud creditors.

\* \* \* \* \*

§ 3. **Improper Use of, etc.**—SEC. 4. When any gift or grant as aforesaid shall be perverted or used for any other purpose than contemplated by this act, or shall be abandoned by the donees, such gift or grant shall become vested in the county where such lands may lie, unless otherwise directed in such gift or grant by the donor, and shall be sold by the order of the county commissioners of such county, and the proceeds thereof applied for the use of education in such county.

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 184.)

## TITLE VI.—DIVORCE.

No. 83.—AN ACT CONCERNING DIVORCE.<sup>1</sup>

§ 1. **Causes For.**—SECTION 1. *Be it enacted, etc.*, That divorces from the bonds of matrimony shall be adjudged and decreed for the following causes to wit: (1) Impotency; (2) adultery. And divorces *a mensa et thoro* shall be adjudged and decreed for the following causes, to wit: (3) Extreme cruelty; (4) willful desertion of either party for one year: *Provided, however*, That divorce from the bonds of matrimony may be decreed for these latter causes at the discretion of the court.

§ 2. **Residence of Petitioner.**—SEC. 2. That no divorce shall be granted except in cases of adultery, unless the petitioner for such divorce shall prove his or her residence in this Territory for one year next preceding his or her application.

§ 3. **Collusion a Bar.**—SEC. 3. That no divorce shall be adjudged and decreed where the complaint is founded on collusion of the parties, or where the party complaining is guilty of the crime set forth in his or her petition.

§ 4. **Adultery of Wife.**—SEC. 4. That when the divorce shall be decreed for the adultery of the wife, the husband shall have the \* \* \* real estate of the wife during his life, in case they have issue born alive of her body during the coverture, otherwise during her natural life only, if he shall survive her: *Provided, nevertheless*, That the court may allow for her subsistence so much out of the personal or real estate as they shall judge necessary.

§ 5. **Adultery of Husband.**—SEC. 5. That when the divorce shall be decreed for the adultery of the husband, the wife, if there be no issue living at the time of the decree, shall be restored to all her lands, tenements and hereditaments, and be allowed out of the personal and real estate, or both, of the husband, such alimony as the court shall think reasonable, not exceeding the use of one moiety of his real estate during the life of the wife; \* \* \* but if there be issue living at the time of the decree, the court, with regard to ordering restitution or granting alimony as aforesaid, may do as they shall judge the circumstances of the case may require, and, upon the application of either party, may from time to time make such alteration therein as may be necessary.

§ 6. **District Court: Jurisdiction of.**—SEC. 6. That all applications for divorce shall be made to the district court of the county where the parties, or either of them, may reside. The petition shall state the names and ages of the parties, and the cause (being one of the preceding causes enumerated) on which the prayer of the petition is founded.

\* \* \* \* \*

§ 7. **Form Not Material—Notice.**—SEC. 8. That no want of form shall delay or obstruct the proceedings. Notice of the petition, and of the time of hearing the same, shall be published in a newspaper printed within this Territory, eight weeks at least before a decree shall be made, or longer notice, as the court may direct, and notice of taking depositions shall be given in all cases.

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<sup>1</sup> See No. 23. See also Laws Iowa Ter., First Sess., 1839, p. 179.



## TITLE VII.—EXECUTIONS.

**No. 84.—AN ACT SUBJECTING REAL AND PERSONAL ESTATE TO EXECUTION.<sup>1</sup>**

§ 1. **What Subject to.**—SECTION 1. *Be it enacted, etc.,* That the personal and real estate of every individual, company, body politic or corporate, including his, her or their goods, chattels, lands, tenements and hereditaments, and any title or equitable right to lands, whether under a certificate from any land office or a title bond from any person for a warranty deed, or any right whatever to the possession of lands, be and the same are hereby made subject to execution, to be taken and sold according to the provisions of this act, \* \* \*

§ 2. **Levy of Writ.**—SEC. 2. That when hereafter any writ of execution may issue against the goods, chattels, lands, tenements and hereditaments of any defendant or defendants, it shall be the duty of the sheriff or other officer to levy such execution upon such part of the estate of such defendant or defendants as he, she or they may direct, but if no such direction shall be given, the messuage, lands or tenements on which such defendant or defendants may be chiefly situated shall not be levied upon unless a sufficiency of other property to satisfy the execution or executions in the hands of the officers cannot be found; and in all cases the real estate of execution defendants shall be exempt from levy and sale until the personal estate of such defendant shall be first levied upon and sold, unless such defendants voluntarily authorize the sale upon execution of their real estate: *Provided*, That nothing herein enacted shall be so construed as to make it the duty of any sheriff or other officer to levy upon and sell on execution property selected for that purpose by any execution defendant or defendants, if there exist any reasonable doubt whether such defendant or defendants is or are the *bona fide* owners of such property so selected.

§ 3. **Sale of Property.**—SEC. 3. That real and personal estate taken in execution shall sell for the best price the same will bring at public outcry, and a deed in fee simple conveying the real estate shall be made to the purchasers, executed by the officer selling the same: *Provided*, That the owner of any real estate sold under the provisions of this act may redeem the same at any time within one year from such day of sale, by paying the purchase money together with twenty-five per centum interest on the same.

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§ 4. **Notice of Sale.**—SEC. 5. That any sheriff or other officer levying an execution upon any real estate shall, previous to offering the same for sale, give at least six weeks' notice of the time and place of such sale, by posting up written advertisements thereof in three of the most public places in the county in which such real estate may be situated, and also by advertising the same for three weeks successively in the newspaper printed nearest such real estate; and, previous to selling any personal estate on execution, the sheriff or other officer levying thereon shall give at least fifteen days' notice of the time and place of such sale, by posting up written notices of the same at three of the most public places in the township in which such sale may be made.

§ 5. **In What Case Second Writ May Issue.**—SEC. 6. That if the estate of any execution defendant or defendants taken and sold on execution, by virtue of the provisions of this act, should fail to sell for a sum sufficient to satisfy the debt, damages and costs due and accruing upon

<sup>1</sup>See No. 23. (See also Laws Iowa Terr., First Sess., 1839, p. 197.)

such execution, the officer returning such execution shall make return of his doings thereon accordingly, and another writ of execution shall issue, to be credited by indorsement made by the clerk or justice, with the sum or sums previously paid or made on any previous execution, upon which writ of execution the proper officer shall proceed to levy and sell, in the manner hereinbefore prescribed, making return of his doings thereon as in other cases.

**§ 6. Who Shall Execute Deed in Case of Death, etc., of Officer Making Sale.**—SEC. 7. That when any sheriff or other officer who may have sold any real estate under the provisions of this act shall, previous to making a deed therefor to the purchaser, go out of office by death, resignation, removal or otherwise, it shall be the duty of the successor in office of such officers to make the necessary deeds to such purchaser: *Provided*, The purchase money has been duly paid.

**§ 7. Sureties—Property of Principal Debtor to be Sold First.**—SEC. 8. That if it shall appear upon the face of any writ of execution, or by indorsement thereon made by the officer issuing the same, that any one of the persons against whom the same may be issued is or are only security for any one or more of the persons against whom such execution may have been issued, the officer executing the same shall first sell so much of the estate of the principal defendant or defendants named in such execution as he may be able to find, before he shall sell any of the estate of such security or securities, unless such officer may be otherwise directed by such security or securities.

\* \* \* \* \*

**§ 8. Duties of Officers.**—SEC. 10. That the clerks of the district court may, upon request, issue executions directed to the proper officer of any county within this Territory, whose duty it shall be to obey and execute the same, and make due return thereof to the officer who issued the same, according to the provisions of this act, and whenever an execution shall be issued in any county in this Territory, or from the Supreme Court, directed to the sheriff or coroner of any other county, it shall be lawful for such sheriff or coroner, having received such execution and discharged all the duties required therein by law, to inclose such execution and forward the same by mail to the clerk of the court who issued the same,

\* \* \* \* \*

**§ 9. Real Estate of Testator: How Subjected to Execution.**—SEC. 16. That no real estate of any testator or intestate shall be subject to execution upon any judgment against the executor or administrator of such testator or intestate until the devisees of such testator and the terretenants of such real estate be first made parties to such judgment in the following manner, to wit: Where any judgment shall be obtained against any executor or administrator to be levied of the goods and chattels of the deceased and execution issued thereon shall remain unsatisfied in whole or part for want of personal estate, and there is real estate in this Territory, it shall be lawful for the plaintiff in such judgment to file in the proper court where such judgment is obtained a petition against the executors or administrators and heirs and devisees if any of the deceased, setting forth the facts of the judgments and the wants of personal property, and that there is real estate in the Territory of Iowa, describing the same, and setting forth in what county or counties the same is situated, and praying said court to award the proper writ or writs of execution against the same; and the clerk of said court shall upon filing such petition notify the persons against whom it is filed of the pendency thereof, requiring them to appear on the first day of the next term of said court, and show cause, if any can, why the proper writ or writs of execution shall not be awarded; which said notice shall be given to residents by summons served by the proper officer, and to non-residents by publishing the same



in the nearest newspaper for four weeks successively, and if a summons it shall be served on residents ten days before the sitting of the court and be published to non-residents as aforesaid. The court shall at the first term award the proper writ or writs of execution directed to the proper officer of the proper county, unless good cause to the contrary be shown, and the nonage of heirs or devisees shall not in any case be good cause to suspend execution.

§ 10. **Real Estate of Mortgagor.**—SEC. 17. That when default or defaults shall be made or suffered by any mortgager or mortgagers of lands, tenements or hereditaments, or by his, her or their heirs, devisees, executors, administrators or assigns of, or in the payment of the mortgage money or performance of the condition or conditions which they or any of them should have paid or performed, or ought to pay or perform, in such manner and form and according to the tenor, purport and effect of the respective provisions, conditions or covenants comprised in the deeds of mortgage or defeasance, and at the days, times and places in the same deeds respectively mentioned and contained, in any purchase, it shall and may be lawful for the mortgagee or mortgagees who may hold the said deed or defeasance, his, her or their heirs, administrators or assigns, at any time after the expiration of the last day whereon the said mortgage money ought to be paid, or other conditions performed as aforesaid, to file his, her or their bill in the proper district court according to the course of the common law, praying such court to foreclose the equity of redemption of the mortgager or mortgagers to such mortgaged premises, and the said court having jurisdiction thereof shall make such equitable decree in the premises between the parties as may be right and just; and the said mortgaged premises, if ordered to be sold by such court, shall be sold as other lands are sold on other execution, to the highest bidder at public vendue, and the sheriff selling the same shall make a proper deed of conveyance to the purchaser or purchasers thereof, as in case of other land sold on execution; and when such lands, tenements and hereditaments shall be sold as aforesaid, the person or persons to whom the same may be sold shall and may hold and enjoy the same with their appurtenances, and such estate or estates shall be discharged from all equity and benefit of redemption, and all other incumbrances made and suffered by the mortgager or mortgagers, his, her or their heirs and assigns, and such sales shall be available in law, and the respective vendees, mortgagees and creditors, their heirs and assigns, shall hold and enjoy the same; but before such sale be made, notice thereof shall be given in manner and form hereinbefore prescribed, concerning the sale of lands upon execution.

\* \* \* \* \*

§ 11. **How Such Estate Conveyed.**—SEC. 19. That no sale of property on execution by virtue of the seventeenth section of this act shall be construed to create any further term or estate in the vendees, mortgagees or creditors to whom the same may be sold or delivered, than the estate so sold and delivered shall appear to have been sold or mortgaged for by the said respective mortgages or defeasible deeds.

§ 12. **Reversal of Judgment: Effect of.**—SEC. 20. That if any estate shall be sold upon execution issued under and in accordance with the provisions of this act, upon any judgment or decree rendered by a court having jurisdiction of the matter of controversy, which may have resulted in such judgment and such judgment or decree shall be afterwards reversed for error or errors, none of such estate so sold on execution shall be restored in consequence of such reversal.

§ 13. **Mutual Judgments—Set-off.**—SEC. 21. That when mutual judgments are existing in any county in this Territory, that it shall be the duty of the officer or officers in whose hands the execution may be to set off one execution or judgment against the other, so far as the same shall extend, and executions may be certified from one county to another for the pur-

pose of allowing such set-offs; and it shall be the duty of the officers when any such executions shall come to their hands to allow the same.

§ 14. **Innocent Purchaser.**—SEC. 22. The innocent purchaser shall be entitled to his suit against the judgment creditor either in law or equity for the recovery of the money paid for such estate.

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## TITLE VIII.—INSANE PERSONS.

### No. 85.—AN ACT CONCERNING INSANE PERSONS.<sup>1</sup>

§ 1. **Void Acts, etc.**—SEC. 1. *Be it enacted, etc.,* That any bargain, sale, conveyance or act of any person or persons in a state of insanity, shall be void and of no effect in law.

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<sup>1</sup>See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 275.)

## TITLE IX.—LIENS OF MECHANICS.

### No. 86.—AN ACT RELATIVE TO MECHANICS' LIENS, AND FOR OTHER PURPOSES.<sup>1</sup>

§ 1. **What Subject to.**—SEC. 1. *Be it enacted, etc.,* That in all cases hereafter where any contract shall be made between the proprietor or proprietors of any tract of land or town lot on the one part and any person or persons on the other part, for the erecting or repairing any house or other building, mill or machinery of any description whatever, or their appurtenances, or for furnishing labor or materials for the purposes aforesaid, and every other person who may have furnished materials which may have been used in the construction of such house, building or mill, by special agreement, the person or persons who shall, in pursuance of such contract, have furnished labor or materials for such purpose, or who shall have furnished such materials as aforesaid, shall respectively have a lien, to secure the payment of the same, upon such house or other building, mill or machinery, and on the lot or tract of land on which the same shall be erected.

§ 2. **How Lien Secured.**—SEC. 2. When any person or persons shall wish to avail himself, herself or themselves of the benefit of such lien, he, she or they shall commence his, her or their action in any court having jurisdiction of the same, within six months from the time payment should have been made by virtue of any such contract by which such lien shall have been claimed. \* \* \*

§ 3. **Special Execution.**—SEC. 3. The clerk of the court, when judgment has been had under the provisions of this act, on application, shall issue a special execution, directed to the sheriff of the proper county, de-

<sup>1</sup>See No. 23. All acts and parts of acts coming within the purview of this act are repealed. In effect from date. (See also Laws Iowa Ter., First Sess., 1839, p. 327.)

scribing the property on which said lien is made to operate, and out of which said judgment and costs are to be collected, or so much thereof as said property will bring; and no other property of the said defendant, in any suit as aforesaid, shall be bound for the payment of such judgment, unless the claimant shall hold collateral security for the payment of the same.

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## TITLE X.—LIMITATION OF ACTIONS.

### **No. 87.—AN ACT FOR THE LIMITATION OF ACTIONS, AND FOR AVOIDING VEXATIOUS LAW SUITS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Right of Entry: Twenty Years.**—SEC. 6. That no person who now hath or hereafter may have any right of entry into any lands, tenements or hereditaments shall make an entry but within twenty years next after such right shall have accrued, and such person shall be barred from any entry afterwards.

§ 3. **Real Actions, etc.: Twenty Years.**—SEC. 7. That every real, possessory, ancestral or mixed action, or writ of right, brought for the recovery of any lands, tenements or hereditaments, shall be brought within twenty years next after the right or title thereto or cause of such action accrued, and not after: *Provided*, That in all the foregoing cases in this act mentioned, where the person or persons who shall have right of entry, title or cause of action is, are or shall be at the time of such right of entry, title or cause of action under the age of twenty-one years, insane or beyond the limits of this Territory, or *feme covert*, such person or persons may make such entry or institute such action, so that the same may be done within such time as is within the different sections of this act limited, after his or her becoming of full age, sane, *feme sole*, or coming within this Territory.

§ 4. **Disability: Absence from Territory.**—SEC. 8. That if any person or persons against whom there is or shall be any cause of action, as is specified in the preceding sections of this act, except real or possessory actions, shall be out of this Territory at the time of the cause of such action accruing, or any time during which a suit might be sustained on such cause of action, then the person or persons who shall be entitled to such action shall be at liberty to bring the same against such person or persons after his, her or their return to this Territory, and the time of such person's absence shall not be accounted or taken as a part of the time limited by this act.

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<sup>1</sup> See No. 23. (See also Laws Iowa Ter., Sess., 1839, p. 325.)

## TITLE XI.—MINORS, ORPHANS AND GUARDIANS.

**No. 88.—AN ACT CONCERNING MINORS, ORPHANS AND GUARDIANS.<sup>1</sup>**

**§ 1. Minors to Choose Guardians, When.**—SECTION 1. *Be it enacted, etc.,* That the courts of probate, in their respective counties, shall admit orphans, minors above the age of fourteen years, the father being dead, to make choice of guardians, and appoint guardians for such as are under the age of fourteen years, in all cases where such minor shall be possessed of or entitled to real \* \* \* estate.

**§ 2. In What Case Court Shall Choose.**—SEC. 2. Whenever it shall be represented to said court that an orphan minor above the age of fourteen years has not a guardian, it shall be the duty of said court to issue a notification to such minor to appear before the said court, at a time therein specified, and choose a guardian; and if such minor shall neglect or refuse to appear, or, on appearing shall neglect to choose a guardian, the court shall appoint one for such minor, as if said minor were under the age of fourteen years.

**§ 3. Continued.**—SEC. 3. Where a minor having a father living shall be entitled to or possessed of any estate, real, \* \* \* not derived from his or her father, the said court of probate shall notify the father to appear and show cause why a guardian for such minor should not be appointed; if sufficient reason be not shown, may appoint the father if he be a proper person; if not, then such other person as the minor, if of the age of fourteen years, may choose. If such minor neglect or refuse, or be not of sufficient age to choose a guardian, the court shall appoint some fit person to be guardian for such minor. And when any person is appointed guardian, other than the father, he shall have the charge and management of the estate, \* \* \*

**§ 4. When Father Insane.**—SEC. 4. If the father of a minor be insane, or be incapable from want of understanding to take care of and provide for such minor, the court of probate shall appoint a guardian as though such father were dead, such insanity or incapacity to be ascertained by inquest in the district court as in other cases.

**§ 5. Duty of Guardians.**—SEC. 5. Guardians, by virtue of their office as such, shall be allowed in all cases to prosecute and defend for their wards.

\* \* \*  
**§ 6. Powers of.**—SEC. 9. Guardians shall have power \* \* \* to lease the real estate of the ward, upon such terms and for such length of time as the court of probate may direct: *Provided,* That such leasing shall never be for a longer time than during the minority of the ward; and the minority of females shall cease at the age of eighteen years.

\* \* \*  
**§ 7. Sale of Real Estate: How Made.**—SEC. 11. The district court may, for just and reasonable cause, being satisfied that the guardian has faithfully applied all the personal estate, order the sale of the real estate of the ward, on the application of the guardian, by petition in writing, stating the facts, and having given notice to all persons concerned of such intended application in some public newspaper printed in this Territory, or setting up written notices in three of the most public places in the county, at least three weeks before the sitting of the court. Such order may enable the guardians to sell and convey the real estate for the sup-

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 347.)

port and education of the ward or to invest the proceeds in other real estate. The court in such order shall direct the time and place of sale, the notice thereof to be given, and may direct the sale to be made on reasonable credit, and require such security of the guardian and purchaser as the interest of the ward may require. It shall be the duty of the guardian making such sale, as soon as may be, to make return of such proceedings to the court granting the order, which, if approved by the court, shall be recorded, and shall vest in the purchaser or purchasers all the interest the ward had in the estate so sold. Application for the sale of such real estate shall be made in the county where the ward shall reside, although the estate may lie in a different county; but if the ward do not reside in the Territory such application shall be made to the court of the county where the whole or any part of the estate shall be situated.

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## TITLE XII.—PARTITION OF REAL PROPERTY.

### **No. 89.—AN ACT TO PROVIDE FOR THE PARTITION OF REAL PROPERTY.<sup>1</sup>**

**§ 1. Who May Commence Action.**—SEC. 1. *Be it enacted, etc.,* That any one or more joint tenants or tenants in common of any lands, tenements or hereditaments, being entitled to the present possession thereof, may commence suit in the district court of the county where the premises are situated for a partition thereof.

**§ 2. How Application for, Made.**—SEC. 2. Such application shall be by petition, describing the property and the respective interests of all the joint owners thereof, if known, and if unknown stating that fact also, which partition shall be verified by affidavit, and filed in the office of the clerk of the court.

**§ 3. Parties to the Suit.**—SEC. 3. All persons having interests in such property liable to be affected by the proceedings, whether they be in possession, expectancy, or by way of incumbrance, must, as far as known, be made parties to the suit, either as petitioners or defendants. If not included at first, their names may be inserted at any time during the progress of the cause.

**§ 4. Persons Under Disability.**—SEC. 4. If any of such joint owners be an infant, or otherwise legally incapable of acting for himself in the premises, the person to whom the care of his share of the joint property is by law intrusted shall, so far as regards the proceedings authorized by this act, be deemed the owner thereof.

**§ 5. Guardian Ad Litem.**—SEC. 5. If such incapable person shall have no one legally authorized to act for him as aforesaid, the court may, for that purpose, appoint a guardian, *ad litem*, \* \* \*

**§ 6. Summons: Issuance and Service of.**—SEC. 6. After filing the petition aforesaid, a summons shall issue which shall be served and returned as in other cases.

**§ 7. Notice in Particular Cases.**—SEC. 7. If said summons be returned "not found" as to any of the defendants, or if the petitioners believe it at all probable that there may be joint owners not known and not named in the petition, the court may, upon their application, direct the clerk to make out a notice to such defendants not known or not found as afore-

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 354.)

said, to be signed by him, and furnished to the petitioners, or their attorney, on demand.

**§ 8. What Notice Shall State.**—SEC. 8. Such notice shall state concisely the objects of the petition aforesaid, and the names of the parties thereto, and shall require all persons interested in the property therein described (whether such persons are named in said petition or not) to appear and answer said petition on or before the first day of the court, or that the proceedings had in the cause thereafter will be binding and conclusive on them forever.

**§ 9. Publication of Notice.**—SEC. 9. The publication of such notice once in each week, for twelve weeks successively, in some newspaper printed most conveniently to the place where the court is held, and for four successive weeks in some newspaper printed at the seat of government for the Territory (such publication to be made as soon as practicable after the issuing of such notice) shall be considered in all respects equivalent to a personal service of the summons aforesaid.

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**§ 10. Notice to New Parties.**—SEC. 15. After the introduction of new parties, as authorized by section third, unless notice shall have been given by publication as hereinbefore provided, the same proceedings in relation to such new parties shall be pursued, by summons or publication, as has been prescribed for the commencement of the suit.

**§ 11. Jury to Try.**—SEC. 16. All issues of fact shall be tried by a jury unless the parties interested shall otherwise agree.

**§ 12. Proof of Title.**—SEC. 17. In all cases each of the parties appearing, whether as petitioners or defendants, shall be required to exhibit his proof of title, and authentic copies of the conveyances by which the same is held, each of which (or copies thereof) shall be filed with the clerk.

**§ 13. Uncontradicted Statements Taken to be True.**—SEC. 18. If the statements in the petition are not contradicted by some of the defendants, or by the aforesaid proofs themselves, such statements shall be taken as confessed and true.

**§ 14. Judgment.**—SEC. 19. After all the shares and interests of the parties shall have been settled in any of the methods aforesaid, judgment shall be rendered, confirming such shares and interests, and that partition be made accordingly.

**§ 15. When Shares Remain Undivided.**—SEC. 20. The shares and interests of all those parties who shall not have appeared as aforesaid, shall, as between such parties, remain undivided.

**§ 16. Incumbrances.**—SEC. 21. Any incumbrance on the undivided share of any party shall, after partition, be confined to the particular share of such party.

**§ 17. Commissioners to be Appointed.**—SEC. 22. After judgment of partition shall have been rendered as aforesaid, the court shall appoint three reputable citizens of the county to act as commissioners for making such partition, and shall specify, in an order of court, the number and nature of the shares into which the property shall be divided.

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**§ 18. How Partition Based and Defined.**—SEC. 27. Where a partition is deemed proper, it shall be made according to value, and not according to quantity. The commissioners shall designate the shares by permanent monuments, \* \* \*

**§ 19. Report of Commissioners.**—SEC. 28. The report of the commissioners shall be in writing, signed by at least two of them. It shall describe the respective shares with as much accuracy as would be necessary in a deed, and shall be accompanied with a plat of the premises.

\* \* \*



§ 20. **Allotment by the Court: How Made.**—SEC. 29. Where the case will admit, the court shall direct the commissioners merely to make the partition into shares. The clerk, in open court, shall make the allotment of those shares, by first numbering the shares, and then drawing the names of the corresponding owners, after the manner of selecting a petit jury.

§ 21. **Part May be Partitioned.**—SEC. 30. Where the case requires, the commissioners may make a partition of a part of the property in the manner aforesaid and, as to the remainder, may report as provided in section 28. The proceedings, in relation to each of the two portions thus divided or undivided, shall be the same, respectively, as is by this act provided for property in either of the two predicaments.

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§ 22. **Report to be Acknowledged, etc.**—SEC. 33. Said report, if not presented in court by the commissioners themselves, must be acknowledged or proved in the same manner as required in the case of deeds, to entitle them to be recorded. It shall then be filed with the clerk.

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§ 23. **Confirmation—Judgment.**—SEC. 35. Upon the report of commissioners being confirmed, judgment shall thereon be rendered that such partition be firm and effectual forever.

§ 24. **On Whom Judgment Binding.**—SEC. 36. Where all the parties in interest shall have been duly notified to appear and answer the petition, either by the service of the summons, or by the publications, or by the publication hereinbefore described, the judgment aforesaid shall be binding and conclusive upon all persons whatsoever.

§ 25. **Judgment Not Binding on Persons Not Served.**—SEC. 37. In other cases it shall only bind those who shall have been duly served with the summons as aforesaid.

§ 26. **When Premises May be Sold.**—SEC. 38. If the said commissioners shall report that a whole or any portion of the property is so situated that a partition thereof cannot be made without great prejudice to the owners, the court if satisfied that such report is correct may cause an order to be entered directing the commissioners to sell the premises so situated at public auction to the highest bidder, and also fixing the terms of sale.

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§ 27. **Incumbrances.**—SEC. 40. After making the order of sale as aforesaid, the court shall direct the clerk to ascertain and report whether there be any general incumbrance by mortgage, judgment, decree or otherwise, upon any portion of said property.

§ 28. **Effect of Incumbrances.**—SEC. 41. If such incumbrance be ascertained to exist, the holders thereof shall be made parties to the proceedings and the same course pursued in relation thereto as directed in section nineteenth.

§ 29. **Notice of Sale.**—SEC. 42. The commissioners shall give the same notice of sales to be made by them as is required where lands are sold by the sheriff on execution.

§ 30. **Report of Sale.**—SEC. 43. After completing such sale the commissioners shall report their proceedings to the court, with a description of the different parcels of land sold to each purchaser and the price paid by him, which report shall be filed with the court.

§ 31. **Execution of Conveyances.**—SEC. 44. If such sales be approved and confirmed by the court, an order shall be entered directing the commissioners, or any two of them, to execute conveyances pursuant to such sales: *Provided*, That no such conveyances shall be made until all

the money is paid without receiving from the purchaser a bond and mortgage of the land so conveyed.

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§ 32. **Record of Conveyances.**—SEC. 46. Such conveyances, so executed as aforesaid, shall be recorded in the county where the premises are situated, and shall be a bar to all persons interested in such premises who shall have been duly summoned or notified as hereinbefore directed.

§ 33. **Share of Person Under Disability.**—SEC. 47. Where any of the parties are under any legal disabilities, as mentioned in section fourth, his share of the proceeds shall be paid over to the person who has represented him in the suit, to be invested for the benefit of the said owner, and to be subject to the laws relative to real property until after such disability has ceased.

\* \* \* \* \*

§ 34. **How Value Ascertained.**—SEC. 49. If an estate for life or years be found to exist as an incumbrance upon any part of said property, and if the parties cannot agree upon the sum in gross which shall be considered an equivalent for such estate, the court shall direct such sum to be calculated according to the principles of law applicable to annuities, and which the person entitled thereto shall consent to accept in lieu thereof, by an instrument under his hand and seal, and acknowledged or proved in the manner required in case of deeds to entitle them to be recorded.

§ 35. **If Consent Not Given.**—SEC. 50. If such consent be not given on demand, the court shall direct the proceeds of the whole share upon which the incumbrance existed to be invested, and the same disposition to be made of the proceeds thereof as though such instrument had remained real property after partition.

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§ 36. **Default of Owner.**—SEC. 52. Any person claiming to hold an incumbrance upon any portion of the property in relation to which the suit is brought may, in default of the owner thereof, appear and act as his representative in any of the proceedings under this act.

§ 37. **Contingent Interests.**—SEC. 53. Persons having a contingent interest in said property may be made parties to the proceedings herein authorized, and the proceeds of the share so situated shall be invested until such contingent interest vests in some ascertained owner.

§ 38. **Share of Absent or Unknown Owner.**—SEC. 54. In all cases the ascertained share of any absent or unknown owner shall also be invested for his benefit.

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§ 39. **Equity Powers of Court.**—SEC. 56. The proceedings authorized by this act being intended as a substitute for all partitions in chancery as well as at law, the court is authorized to exercise equity powers, except as herein otherwise provided.

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## TITLE XIII.—PRACTICE—SUMMONS.

**No. 90.—AN ACT REGULATING PRACTICE IN THE DISTRICT COURTS OF THE TERRITORY OF IOWA.<sup>1</sup>**

§ 1. **What Constitutes a Writ, etc.**—SEC. 1. *Be it enacted, etc.,* That all writs issued by any court in this Territory shall run in the name of the United States of America, and bear test in the name of the presiding judge, and shall be sealed with the seal of said court, signed by the clerk thereof, and made returnable to the first day of the next term, after the date of such writs.

§ 2. **Service: How Made.**—SEC. 2. It shall be the duty of the sheriff, or coroner, to serve all process of summons or capias, when it shall be practicable, ten days before the return day thereof, and to make return of such process to the clerk who issued the same, by or on the return day, with an indorsement of his service, the time of serving it, and the amount of his fees: *Provided*, That when such process shall have been directed to a foreign county, the officer executing the same may make return thereof by mail, \* \* \*

\* \* \*  
§ 3. **Service: When Defendant Not Found.**—SEC. 4. Whenever it shall appear by the return of the sheriff or coroner that the defendant or defendants are not found, the clerk shall, at the request of the plaintiff, issue another summons or capias (as the case may be), and so on until service be had and the defendant or defendants be summoned or brought into court; and if such summons or capias be served on any one or more, but not on all of the defendants, the plaintiff or plaintiffs shall be at liberty to proceed to trial and judgment in the same manner as if the defendants were in court, and any judgment so obtained shall be valid against the defendant or defendants on whom the process had been served, and the plaintiff or plaintiffs may at any time afterwards have a summons in the nature of a *scire facias* against the defendant or defendants not served with the first process as aforesaid, to cause him, her or them to appear in the said court and show cause why he, she or they could not be made a party to such judgment, and the court shall thereon proceed to hear and determine the matter in the same manner as if such defendant or defendants had been originally summoned or brought into court; and such defendant or defendants shall also be allowed the benefit of any payment which may have been made on the judgment before recovered, and the judgment of the court against the defendant or defendants in such case shall be, that the plaintiff or plaintiffs recover against such defendant or defendants, together with the defendant in the former judgment, the amount of his debt, or damages, as the case may be.

\* \* \*  
§ 4. **Judgment by Default.**—SEC. 11. On the appearance of the defendant or defendants, the court may allow such time to plead as may be deemed reasonable and necessary, and for want of appearance may give judgment by default \* \* \*

\* \* \*  
§ 5. **Judgment by Confession.**—SEC. 23. Any person, for a debt *bona fide* due, may confess judgment by himself, or attorney duly authorized, without process; and every confession of judgment, whether with or without process, shall operate as a release of errors on the entering up of the judgment or making record thereof, and in no case, except when the

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 370.)

title of land shall come in question, shall it be necessary for the clerk to make a complete record, unless especially requested by one of the parties, \* \* \*

\* \* \* \* \*

§ 6. **Duties of Clerks.**—SEC. 28. The clerks of the several district courts shall provide and keep in their respective offices a well bound book for entering therein an alphabetical docket of all judgments and decrees rendered in their respective courts, and it shall be the duty of the said clerks, during every term, or within thirty days thereafter, to enter in such term [book<sup>2</sup>] in alphabetical order by the name of the person against whom the judgment or decree was entered, which shall contain, in columns ruled for that purpose, the names of the parties, the date, the nature of the judgment or decree, the amount of the debt, damages and costs, the book and page in which it is entered, and leaving a blank column or columns for entering a note or memorandum of the satisfaction, or other disposition thereof; and when any judgment or decree shall be satisfied by execution, or otherwise, or shall be set aside, the said clerk shall enter a memorandum thereof in the column left for that purpose, showing how disposed of, and the date, book and page where the evidence thereof is recorded, \* \* \*

\* \* \* \* \*

§ 7. **Seal: What Constitutes.**—SEC. 37. That any instrument of writing to which the maker shall affix a scrawl by way of seal, shall be of the same effect and obligation to all intents as if the same was sealed: *Provided*, The seal be referred to in the body of the instrument.

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§ 8. **Minors: How May Sue.**—SEC. 40. Hereafter minors may bring suits in all cases whatever by any person that they may select as their next friend, \* \* \*

\* \* \* \* \*

<sup>2</sup>Not in original.

## TITLE XIV.—PUBLIC LANDS.

### No. 91.—AN ACT TO PROVIDE FOR THE COLLECTION OF DEMANDS GROWING OUT OF CONTRACTS FOR SALES OF IMPROVEMENTS ON PUBLIC LANDS.<sup>1</sup>

§ 1. **Contracts, etc., Valid.**—SECTION 1. *Be it enacted, etc.*, That all contracts, promises, assumpsits or undertakings, either written or verbal, which shall be made hereafter in good faith and without fraud, collusion or circumvention, for sale, purchase or payment of improvements made on the lands owned by the government of the United States, shall be deemed valid in law and equity, and may be sued for and recovered as in other contracts.

§ 2. **Deeds Valid and Binding.**—SEC. 2. That all deeds of quitclaim or other conveyance of all improvements upon public lands shall be as binding and effectual, in law and equity, between the parties for conveying the title of the grantor in and to the same, as in cases where the grantor has the fee simple to the premises conveyed.

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 388.)

## TITLE XV.—SEALS.

No. 92.—AN ACT RESPECTING SEALS.<sup>1</sup>

§ 1. **What Constitutes Seal.**—SECTION 1. *Be it enacted, etc.*, That any instrument to which the person making the same shall affix any device or scrawl, by way of seal, shall be adjudged and held to be of the same force and obligation as if it were actually sealed.

§ 2. **Sealed Instruments.**—SEC. 2. All instruments shall be considered and adjudged as sealed instruments whenever the aforesaid scrawl or device is attached by the mark thereof, although the word "seal" is not mentioned in the body of the instrument.

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 435.)

## TITLE XVI.—TOWN PLATS.

No. 93.—AN ACT TO PROVIDE FOR THE RECORDING OF TOWN PLATS.<sup>1</sup>

§ 1. **Who May Make, etc.: How Made.**—SECTION 1. *Be it enacted, etc.*, That when any county commissioners, or other person or persons, wish to lay out a town in this Territory, or an addition or subdivision of out-lots, said commissioners, or other person or persons, shall cause the same to be surveyed, and a plat or map thereof made [by the county surveyor, if any there be in the county in which said town or addition is situated, but if there be no county surveyor in the county, then, in that case, by the county surveyor of an adjacent county<sup>2</sup>], which plat or map shall particularly describe and set forth all the streets, alleys, commons or public grounds, and all in- and out-lots or fractional lots by him surveyed within, adjoining or adjacent to said town, giving the width, courses, boundaries and extent of all such streets and alleys.

§ 2. **Size of Lots, etc.**—SEC. 2. All the in-lots intended for sale shall be numbered in progressive numbers, or by the squares in which they are situated, and their precise length and width shall be stated on said plat or map. Out-lots shall not exceed ten acres, and shall in like manner be surveyed and numbered, and their precise length and breadth stated on the plat or map, together with any streets, alleys or roads which shall divide or border on the same.

§ 3. **Duty of Proprietor.**—SEC. 3. The county commissioners, proprietor or proprietors of the town, addition or subdivision of out-lots, by themselves or agents, shall, at the time of surveying and laying the same, plant and fix at a corner of the public ground or at a corner of a public lot, if any there be, and if there be none, then at the corner of some one of the in-lots in the town, and at the corner of each out-lot, a good and sufficient stone of such size and dimensions and in such manner as the surveyors shall direct, for a corner from which to make future surveys, and the point or points where the same may be found shall be designated on the plat or map.

<sup>1</sup> See No. 21. (See also Laws Iowa Ter., First Sess., 1839, p. 433.)

<sup>2</sup> See No. 113, *infra*, note.

§ 4. **Record of Plat.**—SEC. 4. The plat or map, after having been completed, shall be certified by the surveyor and the county commissioners, and every other person or persons whose duty it shall be to comply with the foregoing requisitions, shall, at or before the time of offering such plat or map for record, acknowledge the same before any person authorized to take the same; a certificate of such acknowledgment shall, by the officer taking the same, be indorsed on the plat or map, which certificate of the survey and acknowledgment shall also be recorded and form a part of the record.

§ 5. **Donations, Grants, etc.**—SEC. 5. When the plat or map shall have been made out and certified, acknowledged and recorded as required by this act, every donation or grant to the public or any individual or individuals, religious society or societies, or to any corporation or bodies politic, marked or noted as such on said map or plat, shall be deemed in law and in equity a sufficient conveyance to vest the fee simple of all such parcel or parcels of land as are therein expressed, and shall be considered to all intents and purposes a general warranty against such donor or donors, grantee or grantees, for his, her or their use for the uses and purposes therein named, expressed and intended to be for the streets, alleys, ways, commons or other public uses in any town or city, or addition thereto, shall be held in the corporate name thereof in trust to and for the uses and purposes set forth, expressed or intended.

§ 6. **When Plat to be Recorded, if County not Organized.**—SEC. 6. If the county in which said town or addition is situated shall not be organized, then, and in that case, the plat or map shall be recorded in the recorder's office of that county to which the county in which said town is situated shall at the time be attached for judicial purposes.

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## TITLE XVII.—WILLS.

### No. 94.—AN ACT RELATIVE TO WILLS AND TESTAMENTS, EXECUTORS AND ADMINISTRATORS, AND THE SETTLEMENT OF ESTATES.<sup>1</sup>

§ 1. **Who May Devise: How.**—SECTION 1. *Be it enacted, etc.,* That any person having an estate in any lands, tenements or hereditaments, or any annuity or rent charged upon or issuing out of the same. \* \* \* and property of every description whatever, may give or devise the same to any person by last will and testament by him or her lawfully executed.

§ 2. **What Constitutes a Will.**—SEC. 2. That every such last will and testament shall be reduced to writing, and signed by the testator or testatrix, or by some person in his or her presence, and by his or her direction, and attested in the presence of the testator or testatrix by two or more credible witnesses, two of whom declaring on oath or affirmation, before the court of probate for the proper county, that they were present and saw the testator or testatrix sign said will, testament or codicil in their presence, or acknowledged the same to be his or her act and deed, and that they believe the testator or testatrix to be of sound mind and memory at the time of signing or acknowledging the same, shall be sufficient proof of the execution of said will, testament or codicil, to admit the same to record: *Provided*, That no proof of fraud, compulsion or other

<sup>1</sup> See No. 23. (See also Laws Iowa Ter., First Sess., 1839, p. 471.)

improper conduct be exhibited which in the opinion of the court of probate shall be deemed sufficient to invalidate or destroy the same; and every will, testament or codicil, when thus proven to the satisfaction of the court of probate, shall be recorded by the judge thereof in a book to be provided by him for that purpose, and shall be good and available in law for the granting, conveying and assuring the lands, tenements and hereditaments, annuities, rents, goods and chattels therein and thereby given, granted and bequeathed.

§ 3. **What Wills Invalid.**—SEC. 3. That no last will and testament, made by any infant, idiot, or person of insane memory, shall be valid in law.

\* \* \* \* \*

§ 4. **Probate of Will: Limitation of Contest.**—SEC. 6. When any will, testament or codicil shall be exhibited in the court of probate for probate thereof as aforesaid, it shall be the duty of the court to receive probate of the same without delay, and to grant letters testamentary thereon to the person or persons entitled, and to do all other needful acts to enable the parties concerned to make settlement of the estate at as early a day as shall be consistent with the rights of the respective persons interested therein: *Provided, however,* That if any person interested shall, within five years after the probate of any such will, testament or codicil in the court of probate as aforesaid, appear and by his or her bill in chancery contest the validity of the same, an issue at law shall be made up whether the writing produced be the will of the testator or testatrix or not, which shall be tried by a jury in the district court of the county wherein such will, testament or codicil shall have been proven and recorded as aforesaid, according to the practice in our courts of chancery in similar cases; but if no such person shall appear within the time aforesaid, the probate as aforesaid shall be forever binding and conclusive on all the parties concerned, saving to infants, *femes covert*, persons absent from the Territory, or *non compos mentis*, the like period after the removal of their respective disabilities.

\* \* \* \* \*

§ 5. **Record of Wills.**—SEC. 8. All wills, testaments and codicils, or authenticated copies thereof, proven according to the laws of any of the United States, or Territories thereof, or of any country out of the limits of the United States, and touching and concerning estates within this Territory, accompanied with a certificate of the proper officer or officers that said will, testament, codicil, or copy thereof, was duly executed and proved agreeably to the laws and usages of that state or country in which the same was executed, shall be recorded as aforesaid, and shall be good and available in law in like manner as wills made and executed in this Territory.

\* \* \* \* \*

§ 6. **Posthumous Children.**—SEC. 13. If, after making a last will and testament, a child or children shall be born to any testator or testatrix, and no provision be made in such will for such child or children, the will shall not on that account be revoked, but, unless it shall appear by such will that it was the intention of the testator or testatrix to disinherit such child or children, the devises and legacies by such will granted and given shall be abated in equal proportions to raise a portion for such child or children, equal to that which such child or children would have been entitled to receive out of the estate of such testator or testatrix, if he or she had died intestate.

§ 7. **Death of Devisee Before Devise.**—SEC. 14. Whenever a devisee or legatee in any last will and testament, being a child or grandchild of the testator or testatrix, shall die before such testator or testatrix, and no provision shall be made for such contingency, the issue, if any there be, of such devisee or legatee shall take the estate devised or bequeathed, as

the devisee or legatee would have done had he or she survived the testator or testatrix; and if there be no such issue at the time of the death of such testator or testatrix, the estate disposed of by such devise or legacy shall be considered and treated in all respects as intestate estate.

§ 8. **How Will Revoked.**—SEC. 15. No will, testament or codicil shall be revoked otherwise than by burning, canceling, tearing or obliterating the same by the testator himself or in his presence, by his direction and consent, or by some other will, testament or codicil, in writing, declaring the same, signed by the testator or testatrix, in the presence of two or more witnesses, and by them attested in his or her presence, and no words spoken shall revoke or annul any will, testament or codicil, in writing, executed as aforesaid in due form of law.

§ 9. **Jurisdiction.**—SEC. 16. The courts of probate in each county in this Territory shall have jurisdiction and authority to hear and determine all causes, matters and controversies testamentary which shall be brought before them, touching the proof of wills, testaments and codicils, and may grant probate thereof, and shall hear and determine the right of administration of estates of persons dying intestate, and to do all other things touching the granting of letters testamentary and of administration, and the settlement of estates.

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§ 10. **Venue of Wills.**—SEC. 18. If any testator or testatrix shall have a mansion-house or known place of residence, his or her will shall be proved in the court of probate of the county wherein such mansion-house or place of residence shall be; if he or she have no place of residence, and lands be devised in his or her will, it shall be proved in the court of probate of the county wherein the lands lie, or in one of them, where there shall be land in several different counties; and if he or she have no such known place of residence and there be no lands devised in such will, the same may be proved either in the county where the testator or testatrix shall have died, or that wherein his or her estate, or the greater part thereof, shall lie.

\* \* \* \* \*

§ 11. **Distribution of Estate not Devised.**—SEC. 38. All such estate, both real and personal, as is not devised or bequeathed in the last will and testament of any person, shall be distributed in the same manner as the estate of an intestate; but in all such cases the executor or executors, administrator or administrators, with the will annexed, shall have the preference in administering on the same.

§ 12. **Effect of Creditor as Witness.**—SEC. 39. If any lands, tenements or hereditaments shall be charged with any debt or debts by any will, testament or codicil, and the creditor, whose debt is so secured, shall attest the execution of the same, such creditor shall, notwithstanding, be admitted as a witness to the execution thereof.

§ 13. **Bar of Dower.**—SEC. 40. Every devise of land, or any estate therein, \* \* \* to the wife of the testator shall be a bar of her dower in lands, \* \* \* unless it be otherwise expressed in the will, testament, or codicil.

§ 14. **How Bar Prevented.**—SEC. 41. A widow shall be debarred of her right of dower in the estate of her deceased husband in all cases where any provision shall be made for her in the testator's will as aforesaid, unless within six months after the authentication or probate of the will she shall deliver or transmit to the court of probate of the proper county a written renunciation, which may be in the following form, to wit: "I, A. B., widow of C. D., late of the county of ———, Territory of ———, do hereby renounce and quit all claim to any bequest or devise made to me by the last will and testament of my said deceased husband, which has been exhibited and proved according to law, and I do elect



to take, in lieu thereof, my dower or legal share of the estate of my said husband." Which said letter of renunciation shall be filed in the office of the judge of probate, and shall operate as a complete bar against any claim which such widow may afterwards set up to any provisions which may have been thus made for her in the will of any such testator, and by thus renouncing all claims to a devise or bequest as aforesaid, such widow shall thereupon be entitled to the one-third part of the real estate of her said deceased husband for life, and one-third part of the personal estate forever, which shall remain after the payment of all just debts and claims against the estate of such testator.

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**§ 15. Intestate Estate—Rules of Descent.**—SEC. 44. Estates, both real and personal, of resident or non-resident proprietors in this Territory dying intestate, or whose estates or any part thereof shall be deemed and taken as intestate estate, and after all just debts and claims against such estate shall be paid as aforesaid, shall descend and be distributed to his or her children in equal portions, the descendants of a deceased child or grandchild taking the share of their deceased parent, by representation, in equal parts among them. And when there shall be no children of such intestate, or descendants of any child or children living at the time of his or her decease, the estate of said intestate shall belong to his or her father if living, but if said intestate's father be not living, such estate shall belong to his or her mother if living, and if neither of the parents of said deceased shall be living, such estate shall be equally distributed among the brothers and sisters of said deceased, the children or descendants of any deceased brother or sister taking the share of their deceased parent, by representation, in equal parts among them. And if there be no children or descendants of any such deceased, and no parents, brothers or sisters, and no descendants of any brothers or sisters of said deceased, the estate aforesaid shall descend to and be divided equally among his or her next of kin, in equal degree, computing according to the rules of the civil law. And in no case shall there be a distinction between the kindred of the whole and those of the half blood; saving to the widow in all cases her dower, and to the husband his courtesy, according to the course of the common law.

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**§ 16. Advancements: Effect of.**—SEC. 46. Where any of the children of a person dying intestate, or their issue, shall have received from such intestate in his or her lifetime any real or personal estate by way of advancement, and shall desire to come into the partition or distribution of such estate with the other parceners or distributees, such advancements both of real and personal estate shall be brought into hotchpot with the whole estate, real and personal, of such intestate, and every person so returning such advancements as aforesaid shall thereupon be entitled to his or her just proportion of said estate.

**§ 17. Children Born Before Marriage: How Legitimated.**—SEC. 47. If any man shall have one or more children by any woman whom he shall afterwards marry, such child or children, if acknowledged by the man, shall, by virtue of such mortgage and acknowledgment, be thereby legitimated and capable in law to inherit and transmit inheritance as if born in wedlock.

**§ 18. Children of Unmarried Woman not Necessarily Disinherited.**—SEC. 48. If any single or unmarried woman having estate either real or personal in her own right shall thereafter die, leaving one or more children deemed in law illegitimate, such child or children shall not on that account be disinherited, but they, and each of them and their descendants, shall be deemed able and capable in law to take and inherit the estate of their deceased mother in equal parts among them to the exclusion of all other persons: *Provided*, That if there shall be no such child or

children or their descendants, then and in such case the estate of the intestate shall be governed by the rules of descent as in other cases where illegitimates are excluded.

§ 19. **Aliens: Certain Rights of.**—SEC. 49. All foreigners, whether aliens, denizens, or naturalized citizens, may take and hold real and personal estate in this Territory either by purchase or descent, and alienate and transmit the same to their heirs or assigns, whether such heirs or assigns be citizens of the United States or not, in the same manner as natural born citizens of the United States may or can do; and the children or next of kin of any such person dying intestate and leaving estate either real or personal in this Territory, whether such children or kindred be citizens of the United States or not, shall be deemed and taken to come within the rule of descents hereinbefore described, and shall inherit such estate accordingly; saving to the widow of such alien, denizen, or naturalized citizen, in all cases, such dower, provision and privilege as is or may be allowed by law in other cases.

§ 20. **What Estates Subject to Dower.**—SEC. 50. Equitable estates shall be subject to the widow's dower, and all real estate of every description contracted for by the husband in his lifetime, the title to which may be completed after his decease.

§ 21. **Posthumous Child of Intestate.**—SEC. 51. In all cases where any person shall die intestate, leaving real and personal estate in this Territory, and a child or children shall be born unto him after his decease, within the usual time prescribed by law, such child or children shall come in for their just proportion of said estate in all respects as though he, she or they had been born in the lifetime of the intestate.

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§ 22. **Process: How Issued.**—SEC. 55. All letters testamentary, letters of administration, either with or without the will annexed, letters of administration to collect, and *de bonis non*, writs, summonses, citations, subpoenas, and all other processes which may at any time be made or issued by the judge of probate in the discharge of his official duties, shall be made and issued in the name of the Territory of Iowa, bear test in the name of such judge, and be sealed with the seal of the said court of probate.

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§ 23. **Record to be Kept.**—SEC. 62. The judges of the court of probate respectively shall make, keep and preserve complete records of all wills, testaments and codicils, and the probate thereof; all letters testamentary and of administration, either with or without the will annexed, *de bonis non*, \* \* \*

\* \* \* \* \*

§ 24. **Sale Under Will Valid.**—SEC. 85. In all cases where power is or may be given in any will to sell and dispose of any real estate, or interest therein, and the same shall be sold and disposed of in the manner and by the person appointed in such will, the sale shall be good and valid; and where one or more executors shall depart this life before such sales be made, the survivor or survivors shall have the same power, and their sales shall be good and valid as though they all joined in such sale.

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§ 25. **Petition for Sale of Real Estate—Notice.**—SEC. 94. When any executor or administrator, whose testator or intestate shall have died seized of any real estate in this Territory shall discover or suspect that the personal estate of such testator or intestate is insufficient to pay the just claims against his or her estate, such executor or administrator shall, as soon as conveniently may be, make a just and true account of the said personal estate and debts, as far as he or she can discover the same, and shall make out a petition to the district court of the county in which ad-



ministration shall have been granted, stating therein what real estate the said testator or intestate died seized of, or so much thereof as will be necessary to pay his or her debts as aforesaid, and request the aid of the said court in the premises; and it shall also be the duty of such administrator or executor to give at least thirty days' notice of the time and place of presenting such petition, by serving a written notice of the same, together with a copy of said account and petition on each of the heirs, or their guardians, or devisee of said testator or intestate, or by publishing a notice in the nearest newspaper, for three weeks successively, commencing at least six weeks before the presenting of said petition, of the intention of presenting the same to the district court, for the sale of the whole or so much of the real estate of the said testator or intestate as will be sufficient to pay his or her debts, and requesting all persons interested in said real estate to show cause why it should not be sold for the purposes aforesaid.

§ 26. **Grounds for and Manner of Sale.**—SEC. 95. It shall be the duty of the said district court, at the time and place specified in the notice aforesaid, or at such other time as the said court shall appoint, to hear and examine the proof and allegations of such executor or administrator, and of all such other persons interested in said estate as may think proper to resist such sale, and if, upon due examination, the said district court shall ascertain that the said personal estate of such testator or intestate is not sufficient for the payment of his or her debts, the said court shall order and direct the whole, if necessary, but if not, then so much of said real estate, from time to time, as will be sufficient to pay such debts, to be sold as is hereinafter directed, and when a part only of such estate is ordered to be sold, such order shall specify, as particularly as may be, the part so ordered to be sold: *Provided, always,* That where any houses and lots, or other real estate, are so situated that a part thereof cannot be sold without manifest prejudice to the heirs or devisees, such court may, in its discretion, order the sale of the whole, or such part thereof as shall be necessary for the payment of debts, and the overplus arising from such sale shall be distributed among the heirs and devisees, or such other person or persons as may be entitled thereto.

§ 27. **Who Shall Make Sale.**—SEC. 96. All sales of such real estate directed to be made as aforesaid shall be made, and conveyances executed for the same by the executor or administrator applying for such order; which said conveyances shall set forth such order at large, and shall be valid and effectual against the heirs and devisees of such testator or intestate, and all other persons claiming by, through or under him, her or them.

§ 28. **Sale to be Public: Notice of, etc.**—SEC. 97. No lands or tenements shall be sold by virtue of any such order of the district court as aforesaid, unless such sale be at public vendue, and between the hours of ten o'clock in the forenoon and five o'clock in the afternoon of the same day; nor unless the time and place of holding such sale shall have been previously published for the space of six weeks successively, by putting up notices thereof in at least four of the most public places in the county where such real estate shall be sold, and also by causing a similar notice thereof to be published in the nearest newspaper in this Territory; nor unless such real estate be described with common certainty in said advertisements; and if any executor or administrator, so ordered to make sale of any real estate aforesaid, shall sell the same contrary to the provisions of this act, he shall forfeit and pay the sum of five hundred dollars, to be recovered by action of debt in the name of the Territory of Iowa, for the use of any person interested who may prosecute for the same: *Provided,* That no such offense shall be deemed to affect the validity of such sale: *And provided further,* That it shall be lawful for such executor or administrator to sell the same on a credit of not less than six nor more than twelve

months, by taking bond with good security for the payment of the purchase money, and by taking a mortgage on said land.

§ 29. **Inventory Must be Filed.**—SEC. 98. No part of the real estate of any testator or intestate shall be ordered to be sold, unless the executor or administrator applying for such order shall have made and filed an inventory, appraisement bill and sale bill in the office of the judge of probate; nor unless such executor or administrator shall have first applied the personal estate, or the proceeds thereof, or such part thereof as shall have come into his possession, towards the payment of the debts of the said testator or intestate.

§ 30. **Infants to Have Guardians.**—SEC. 99. In all cases where a petition shall be presented for the sale of any real estate, and one or more of the devisees or heirs of the testator or intestate shall be infants, and without a guardian resident in the county in which such petition shall be preferred, the district court to which the same shall be presented shall appoint some discreet person as guardian *ad litem* for the purpose of appearing for and defending the interest of such infant or infants in the proceedings therein.

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§ 31. **Sale of Real Estate.**—SEC. 113. Whenever it shall appear that the personal estate of any person deceased is insufficient to discharge the debts of such estate, and there is real estate belonging to the same, the court of probate shall make out such an abstract from its records of the debts and credits of such estate, and of the lands owned by such testator or intestate, from the inventory of such estate, whether the title be complete or not; which abstract shall be presented to the district court by the executor or administrator, who may then obtain an order to sell the same in the manner hereinbefore directed; \* \* \*

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§ 32. **Mortgage of Deceased Mortgagee—How Released.**—SEC. 121. When the mortgagee of any lands or tenements shall die, leaving minor heirs, the executors or administrators of such mortgagee shall be and they are hereby authorized, on receiving the amount due the estate of such deceased mortgagee, to release to the mortgagor the legal title of the said mortgaged premises, and such deed of release shall be valid.

§ 33. **Executors, etc., May Mortgage and Lease.**—SEC. 122. Real estate may be mortgaged or leased by executors or guardians: *Provided*, Such mortgage or lease shall not be for a longer term than until the heir entitled to such estate shall attain the age of twenty-one years, if a male, or eighteen years, if a female.

§ 34. **How Shall Proceed.**—SEC. 123. Before any mortgage or lease shall be made as aforesaid, the executors or guardians shall petition the court of probate for an order authorizing such mortgage or lease to be made, and which the court may grant if the interests of the estate require it: \* \* \*

\* \* \* \* \*

§ 35. **Contracts for Sale of Real Estate.**—SEC. 132. AND WHEREAS, It may be often necessary, to enable the representatives of persons deceased to perform the engagements entered into by such deceased persons for the transfer of real estate: therefore,

*Be it further enacted*, That whenever it shall be represented and made to appear to the district court of the proper county by any person or persons contracted with, by bond, covenant or other contract in writing, that a deceased testator or intestate in his or her lifetime entered into such bond, covenant or contract to convey some real estate to him or her, but was prevented by death, and that such person or persons contracted with as aforesaid have on his, her or their part performed or stand ready to perform the condition of such bond, covenant or contract made with the

deceased, the said court may (after due notice to all concerned shall have been given, by personal service of summons, if such persons concerned reside in the county wherein such representation is made, and if such persons concerned shall not reside in such county, then by an advertisement printed in the nearest newspaper of general circulation for six weeks successively), grant license to and empower the executors or administrators of such deceased obligor, covenantor or contractor to make and execute such conveyance or conveyances to such person or persons contracted with as aforesaid, as it shall appear the said obligor, covenantor or contractor would, by his bond, covenant or contract, be obliged to make and execute in case he, she or they were living at the time of the performance of the conditions of the bond, warrant or contract, by the contractors on their part making reasonable allowance for any alterations, improvements or injuries that may be made or done in the same estate since such contract was made, as the said court may award; which conveyance or conveyances, when duly acknowledged and recorded in the registry of deeds for the county where such estate shall lie, shall be good and valid. \* \* \* *Provided*, That the summons in this section mentioned shall be served upon the persons concerned at least thirty days before the term of the court at which such license or power is granted as aforesaid.

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## DIVISION IV.—LAWS IOWA TERRITORY, R. S. 1843.

## TITLE I.—ATTACHMENT.

**No. 95.—AN ACT ALLOWING AND REGULATING WRITS OF ATTACHMENT.<sup>1</sup>**

**§ 1. When Issued — What Affidavit Must State.**—SECTION 1. *Be it enacted, etc.,* That when any action founded on contract shall have been commenced, or shall be about to be commenced, in the district court in any county in this Territory, either by summons or capias, a writ of attachment shall be issued by the clerk of said court upon an affidavit being filed in his office containing the following requisites: (1) It must state that something is due from the defendant to the plaintiff, and as nearly as practicable the exact amount. (2) It must state that, as deponent verily believes, the said debtor is a non-resident of the Territory, or that he is in some manner about to dispose of or remove his property with intent to defraud his creditors, or that he has absconded so that the ordinary process cannot be served upon him. The facts and circumstances on which such belief is founded shall be distinctly stated and set forth in the affidavit.

\* \* \* \* \*

**§ 2. How Executed.**—SEC. 6. The officer to whom the writ of attachment is directed shall, by virtue thereof, in presence of two citizens of the Territory possessing the qualification of jurors, attach any lands, tenements, \* \* \* of said debtor, which may be found in his county, in whose hands soever the same may be found, or so much thereof as shall be sufficient to pay the debt sworn to as aforesaid, together with the interest and costs of suit.

**§ 3. Inventory.**—SEC. 7. The said officer, together with the two citizens aforesaid, who shall be under oath, or affirmation, to be by him administered, shall make a true inventory and appraisement of all the property so by him attached, which inventory and appraisement shall be signed by the officer and citizens aforesaid, and shall be annexed to and returned with said writ. The property attached shall be bound from the time of serving the writ as aforesaid.

\* \* \* \* \*

**§ 4. Service by Publication.**—SEC. 20. If the process by which the suit is commenced should not be served upon the defendant, and a voluntary appearance be not made by him before the end of the term at which the writ of attachment is returnable, immediately after such time, the clerk who issued said writ shall make out an advertisement in which he shall state the names of the parties, the time when, from what court, and for what sum, said writ of attachment issued, and that unless the defendant appear and plead before the next term of the court, judgment will be entered, and the property so attached will be sold to satisfy the same.

**§ 5. How Published.**—SEC. 21. Such advertisement shall be delivered to the plaintiff, or his attorney, on demand, who within thirty days thereafter shall cause the same to be published in some newspaper printed in this Territory most convenient to the place where the court is held, and such publication shall be continued successively for four weeks.

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<sup>1</sup> See No. 21, §2, subd. 8. (See also Laws Iowa Ter., R. S. 1843, p. 77.)

§ 6. **Non-Appealance—Judgment.**—SEC. 24. If, after the publication prescribed in section twenty-one, the defendant do not appear as therein required, the final judgment thereupon entered shall be conclusive so far as regards the property attached, \* \* \*

§ 7. **Sale of Property.**—SEC. 25. After judgment in such cases, the property attached shall be advertised and sold in the same manner as is provided for property levied on by writ of *fiery facias*, \* \* \*

§ 8. **Writ: When May be Served on Sunday.**—SEC. 32. The writ of attachment, as authorized by this act, may be issued and served on Sunday: *Provided*, In addition to the requisites prescribed in section first, the affidavit shall state that it would be unsafe to delay proceedings till Monday. \* \* \*

§ 9. **Writ: How Defects Cured.**—SEC. 34. No writ of attachment shall be quashed, nor the subsequent proceedings deemed invalid, on account of any defect in the writ which would not have been fatal in a summons, nor on account of any insufficiency in the affidavit or bond: *Provided*, A sufficient affidavit or bond shall be filed within a reasonable time after objections have been taken to those originally filed. \* \* \*

§ 10. **Joint Debtors.**—SEC. 35. Where two or more are jointly bound or indebted, the writ of attachment provided for by this act may be issued against the separate or joint estates, or both, of such joint debtors, or any of them, in the same manner as provided for in other cases. \* \* \*

## TITLE II.—CONSTRUCTION OF STATUTES.

### No. 96.—AN ACT CONCERNING THE CONSTRUCTION OF STATUTES.<sup>1</sup>

<sup>1</sup> See No. 21, § 2, subd. 62. (See also Laws Iowa Ter., R. S. 1843, p. 572.) This act is *ver-*  
*bation* as No. 81, *supra*.

## TITLE III.—CONVEYANCES.

### No. 97.—AN ACT TO REGULATE CONVEYANCES.<sup>1</sup>

§ 1. **Estate Held in Trust.**—SECTION 1. *Be it enacted, etc.*, That when any person becomes seized of any real estate, to the use, confidence or trust of any other person, civil or natural, the person who has such use, confidence or trust, in fee simple, for term of life, or of years, or otherwise, or in remainder or reversion, shall be deemed forthwith in a lawful seizin estate and possession of the same real estate, remainder or reversion in such like estates, and after the same quality, manner, form and condition as he is in the use, confidence or trust.

§ 2. **Term "Heirs" not Necessary.**—SEC. 2. The term "heirs" or other words of inheritance shall not be necessary to create or convey an

<sup>1</sup> See No. 21, § 2, subd. 18. (See also Laws Or. Ter., Sess. 1843-49, p. 188; see also Laws Iowa Ter., R. S. 1843, p. 202.)

estate in fee simple; and every conveyance of any real estate hereafter executed shall pass all the estate of the grantor, unless the intent to pass a less estate shall appear by express terms, or be necessarily implied in the term of the grant.

**§ 3. Estate in Fee Simple Includes Subsequently Acquired Interests.**—SEC. 3. If any person shall convey any real estate by a conveyance purporting to convey the same in fee simple absolute, and shall not at the time of such conveyance have the legal estate in such real estate, but shall afterwards acquire the same, the legal estate subsequently acquired shall immediately pass to the grantee; and such conveyance shall be as valid as if such legal estate had been in the grantor at the time of the conveyance.

**§ 4. Grantor's Interest May be Conveyed Notwithstanding Adverse Possession.**—SEC. 4. Any person claiming title to any real estate may, notwithstanding there may be an adverse possession thereof, sell and convey his interest therein in the same manner and with like effect as if he was in the actual possession thereof.

**§ 5. Tenancy in Common.**—SEC. 5. Every interest in real estate, granted or devised to two or more persons (other than to executors and trustees as such), shall be a tenancy in common, unless expressly declared in such grant or devise to be in joint tenancy.

**§ 6. "Grant, Bargain and Sell," Construed.**—SEC. 6. The words grant, bargain and sell, in all conveyances in which any estate of inheritance in fee simple is limited, shall, unless restrained by express terms contained in such conveyance, be construed to be the following express covenants on the part of the grantor, for himself and his heirs, to the grantee, his heirs and assigns: (1) That the grantor was, at the time of the execution of such conveyance, seized of an indefeasible estate in fee simple in the real estate thereby granted; (2) that such real estate was, at the time of the execution of such conveyance, free from incumbrance done or suffered by the grantor or any person claiming under him; (3) for further assurance of such real estate to be made by the grantor and his heirs to the grantee, his heirs and assigns, and may be sued upon in the same manner as if such covenants were expressly inserted in the conveyance; (4) every instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, shall be acknowledged or proved and certified in the manner herein prescribed.

**§ 7. Acknowledgment: Who May Take.**—SEC. 7. The proof or acknowledgment of every such instrument shall be taken by some one of the following courts or officers: (1) If acknowledged or proved within this Territory, by some court having a seal, or some judge, justice or clerk thereof, or some justice of the peace or notary public; (2) if acknowledged or proved before a justice of the peace residing in another and different county from the one wherein such real estate is situated, a certificate of the clerk of the district court of said county shall accompany such instrument, certifying that said person, before whom the acknowledgment or proof was taken, was at the time of taking such acknowledgment or proof an acting justice of the peace of such county.

**§ 8. Certificate of Acknowledgment.**—SEC. 8. Every court or officer shall take the proof or acknowledgment of any such instrument in writing, or the relinquishment of the dower of a married woman on any conveyance of the real estate of her husband, shall grant a certificate thereof, and cause such certificate to be endorsed on such instrument or conveyance.

**§ 9. How Certificate Authenticated.**—SEC. 9. Such certificate shall be: (1) When granted by a court, under the seal of the court; (2) when granted by the clerk of a court, under the hand of the clerk and seal of the court of which he is clerk; (3) when granted by an officer who has a seal of office, under the hand and official seal of such officer; (4) when



granted by an officer who has no seal of office, under the hand of such officer.

**§ 10. Grantor Must be Personally Known to Officer.**—SEC. 10. No acknowledgment of any instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, shall be taken unless the person offering to make such acknowledgment shall be personally known to at least one judge of the court, or to the officer taking the same, to be the person whose name is subscribed to such instrument as a party thereto, or shall be proved to be such by at least one credible witness.

**§ 11. What the Certificate Shall State.**—SEC. 11. The certificate of such acknowledgment shall state the fact of acknowledgment, and that the person making the same was personally known to at least one judge of the court, or to the officer granting the certificate, to be the person whose name is subscribed to the instrument as a party thereto, or was proved to be such by at least one witness, whose name shall be inserted in the certificate.

**§ 12. Proof of Execution of Instrument.**—SEC. 12. The proof of the execution of any instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, shall be: (1) By the testimony of a subscribing witness; or (2) when all the subscribing witnesses are dead or cannot be had, by evidence of the hand writing of the party and of at least one such witness shall be personally known to at least one judge of the court, or to the officer taking the proof, to be the person whose name is subscribed to the instrument as a witness thereto, or shall be proved to be such by at least two credible witnesses.

**§ 13. Certificate of Proof.**—SEC. 13. No certificate of such proof shall be granted unless such subscribing witness shall prove that the person whose name is subscribed thereto as a party, is the person who executed the same; that subscribing witness, given by at least two credible witnesses to each signature.

**§ 14. Proof by Subscribing Witness.**—SEC. 14. No proof by a subscribing witness shall be taken unless such person executed the instrument, and that such witness subscribed his name thereto as a witness thereof.

**§ 15. What Certificate of Proof Shall State.**—SEC. 15. The certificate of such proof shall set forth the following matter: (1) The fact that such subscribing witness was personally known to at least one judge of the court, or to the officer granting the certificate, to be the person whose name is subscribed to such instrument as a witness thereto, or was proved to be such by at least one witness, whose name shall be inserted in the certificate. (2) The proof given by such witness, of the execution of such instrument, and of the facts that the person whose name is subscribed to such instrument as a party thereto, is the person who executed the same, and that such witness subscribed his name to such instrument as a witness thereof.

**§ 16. Proof: Court or Officer Must be Satisfied.**—SEC. 16. No proof, by evidence of the hand writing of the party and of a subscribing witness, shall be taken, unless the court or officer taking the same shall be satisfied that all the subscribing witnesses to such instrument are dead, or cannot be had to prove the execution thereof.

**§ 17. Proof: What Witnesses Shall State.**—SEC. 17. No certificate of any such proof shall be granted, unless at least two credible witnesses shall state, on oath, that they personally knew the person whose name is subscribed thereto as a party, well know his signature, stating their means of knowledge, and believe the name of the person subscribed thereto as a party was subscribed by such person, nor unless at least two credible witnesses shall, in like manner, state that they personally knew the per-



son whose name is subscribed to such instrument as a witness, well know his signature, stating their means of knowledge, and believe the name subscribed thereto as a witness was thereto subscribed by such person.

**§ 18. Certain Other Facts to be Certified.**—SEC. 18. The certificate of such proof shall set forth the names of the witnesses examined, the fact that such witnesses were sworn, and the evidence required by the last preceding section to be by them given.

**§ 19. Dower: How Relinquished.**—SEC. 20. A married woman may relinquish her dower in any of the real estate of her husband by any conveyance thereof executed by herself and husband and acknowledged and certified in the manner hereinafter prescribed.

**§ 20. Relinquishment: Before Whom to be Taken.**—SEC. 21. Such relinquishment shall be taken before some court or officer authorized by this act to take the proof or acknowledgment of instruments in writing conveying real estate or affecting the same.

**§ 21. Married Woman Must be Personally Known, etc.**—SEC. 22. No such relinquishment shall be taken unless such married woman shall be personally known to at least one judge of the court or the officer taking the same, to be the person whose name is subscribed to such conveyance as a party thereto, or shall be proved to be such by at least one credible witness, nor unless she shall be made acquainted with the contents of such conveyance, and shall acknowledge, on an examination apart from her husband, that she executed the same and relinquished her dower in the real estate therein mentioned freely and without compulsion or undue influence of her husband.

**§ 22. What Certificate of Relinquishment Shall State.**—SEC. 23. The certificate of such relinquishment shall set forth that such married woman was personally known to at least one judge of the court, or to the officer taking the same, to be the person whose name is subscribed to such conveyance, or was proved to be such by at least one witness whose name shall be inserted in the certificate; that she was made acquainted with the contents of such conveyance, and acknowledged on an examination apart from her husband, that she executed the same and relinquished her dower in the real estate therein mentioned freely and without compulsion or undue influence of her husband.

**§ 23. Married Woman May Convey her Real Estate: How.**—SEC. 24. A married woman may convey any of her real estate by any conveyance thereof, executed by herself and husband, and acknowledged by such married woman, and certified in the manner hereinafter prescribed by some court authorized by this act to take and certify such acknowledgment.

**§ 24. How Far Bound by Conveyance.**—SEC. 25. No covenant, expressed or implied in any such conveyance, shall bind such married woman or her heirs, except so far as may be necessary effectually to convey from such married woman and her heirs all her right and interest expressed to be conveyed in such conveyance.

**§ 25. Who May Take Married Woman's Acknowledgment.**—SEC. 26. Any court or person authorized by this act to take the proof or acknowledgment of any instrument in writing that conveys any real estate, or whereby any real estate may be affected, in law or equity, may take and certify the acknowledgment of a married woman to any such conveyance of her real estate.

**§ 26. Must be Personally Known, etc., to Officer Taking.**—SEC. 27. No such acknowledgment shall be taken unless such married woman shall be personally known to at least one judge of the court taking the same to be the person whose name is subscribed to such conveyance as a party thereto, or shall be proved to be such by at least one credible wit-

ness; nor unless said married woman shall be made acquainted with the contents of such conveyance, and shall acknowledge, on an examination apart from her husband, that she executed the same freely and without compulsion or undue influence of her husband.

§ 27. **What Acknowledgment Shall State.**—SEC. 28. The certificate of such acknowledgment shall set forth that such married woman was personally known to at least one judge of the court granting the same to be the person whose name is subscribed to such conveyance as a party thereto, or was proved to be such by at least one witness (whose name shall be inserted in the certificate), and that she was made acquainted with the contents of such conveyance, and acknowledged, on an examination apart from her husband, that she executed the same freely and without compulsion or undue influence of her husband.

§ 28. **When Shall be Recorded.**—SEC. 29. Every instrument in writing that conveys any real estate, or whereby any real estate may be affected in law or equity, proved or acknowledged, and certified in the manner above prescribed, shall be recorded in the office of the recorder of the county in which such real estate is situated.

§ 29. **Effect of Acknowledgment—Notice.**—SEC. 30. Every such instrument in writing, certified and acknowledged in the manner herein above prescribed, shall, from the time of filing the same with the recorder for record, impart notice to all persons of the contents thereof, and all subsequent purchasers and mortgagees shall be deemed in law and equity to purchase with notice.

§ 30. **Not Valid Unless Recorded: Exception.**—SEC. 31. No such instrument in writing shall be valid except between the parties thereto and such as have actual notice thereof, until the same shall be deposited with the recorder for record.

§ 31. **Power of Attorney.**—SEC. 32. Every letter of attorney or other instrument in writing containing a power to convey any real estate as agent or attorney for the owner thereof, or to execute as agent or attorney for another, any instrument in writing that conveys any real estate, or whereby any real estate may be effected in law or equity, shall be acknowledged or proved and certified and recorded as other instruments in writing conveying or affecting real estate are required to be acknowledged or proved and certified and recorded.

§ 32. **How Power Revoked.**—SEC. 33. No such letter of attorney or other instrument certified and recorded in the manner prescribed in the preceding section, shall be deemed to be revoked by any act of the party by whom it was executed, until the instrument containing such revocation shall be deposited for record in the same office in which the instrument containing the power was recorded.

§ 33. **Acknowledgment Not Conclusive.**—SEC. 36. Neither the certificate of the acknowledgment, or of the proof of any such instrument in writing, nor the record or transcript of the record of such instrument, shall be conclusive, but the same may be rebutted.

§ 34. **"Real Estate," Construed.**—SEC. 38. The term real estate, as used in this act, shall be construed as co-extensive in meaning with lands, tenements and hereditaments, and as embracing all chattels real.

§ 35. **Wills, etc., Not Embraced in this Act.**—SEC. 39. This act shall not be so construed as to embrace within its provisions last wills and testaments.

§ 36. **Deeds, etc., Hereafter Executed Outside of Territory—When Valid.**—SEC. 40. That all deeds and conveyances of lands, tenements or hereditaments, situated, lying and being within this Territory, which shall hereafter be made and executed in any other Territory, State or

country, whereby such lands, tenements or hereditaments shall be conveyed, in whole or in part, or otherwise affected or incumbered, in law, may be acknowledged, proved and certified according to, and in conformity with, the laws and usages of the Territory, State or country in which such deeds or conveyances were acknowledged or proved, or in which they shall be acknowledged or proved; and all such deeds and conveyances are hereby declared effectual and valid, in law, to all intents and purposes, as though the same acknowledgment had been taken, or proof of execution made, within this Territory, or in pursuance of the laws thereof, and such deeds and conveyances so acknowledged or proved as aforesaid, may be admitted to be and shall be recorded in the respective counties in which such lands, tenements or hereditaments do or may lie.

§ 37. **Deeds, etc., Already Executed Outside.**—SEC. 41. That all deeds and conveyances of lands, tenements and hereditaments, situate, lying and being within this Territory, which have been acknowledged or proved within any other Territory, State or country, according to and in compliance with the laws and usages of such Territory, State or country, and which deeds or conveyances have been recorded within this Territory, be and the same are hereby confirmed and declared effectual and valid in law, to all intents and purposes as though the said deeds or conveyances so acknowledged or proved and recorded had, prior to being recorded, been acknowledged or proved within this Territory.

§ 38. **Effect of Deeds, etc., Made in Open Court.**—SEC. 42. The execution and delivery of any deed or conveyance of any lands, tenements or hereditaments in any court of law or equity in this Territory shall be considered *prima facie* evidence of its execution and delivery, and the party denying the same, his agent or his attorney, shall deny the same by his oath or affidavit, when the party introducing such deed shall prove the execution and delivery as in other cases.

§ 39. **What Instruments Good and Valid.**—SEC. 43. That all instruments of writing conveying any real estate, or whereby any real estate may be affected, either in law or equity, that have been proved or acknowledged according to the foregoing provisions of this act, shall be good and valid.

## TITLE IV.—COURTS.

### CHAPTER I.—PROBATE COURTS.

**No. 98.**—AN ACT TO REGULATE THE INSTITUTION OF SUITS BY FOREIGN EXECUTORS, ADMINISTRATORS AND GUARDIANS WITHIN THIS TERRITORY.<sup>1</sup>

§ 1. **Letters Testamentary.**—SECTION 1. *Be it enacted, etc.,* That when any letters testamentary or of administration may have been or shall be granted on the estate of any deceased person who may have been a resident in any one of the United States, or Territories thereof, except this Territory, any person or persons to whom either of said letters may have been or shall be granted shall be enabled to prosecute suits in any court in this Territory, in the same manner as if such letters had been granted to such person or persons by any court in this Territory.

<sup>1</sup> See No. 21, §2, subd. 25. (See also Laws Or. Ter., Sess. 1843-49, p. 147; see also Laws Iowa Ter., R. 8, 1843, p. 243.)

§ 2. **How Authenticated.**—SEC. 2. That such person or persons shall, upon the trial of any suit in this Territory instituted under such letters, produce a copy of the same, authenticated by the certificate of the officer who may have granted the same, or his successor in office, under the official seal of his court, that such letters were granted in conformity with the laws of the State or Territory where the same were granted. And such letters, when so certified and produced, shall be conclusive evidence of the ability of such person to institute such suit.

§ 3. **Where to be Recorded.**—SEC. 3. Any foreign executor or administrator may produce his letters testamentary or of administration to any court of probate in any county in this Territory wherein there is any estate belonging to the testate or intestate, and have the same recorded therein, and thereafter shall be as fully empowered to administer upon the estate of his testate or intestate within this Territory as if letters testamentary or of administration had been originally granted by some court of probate within this Territory.

**No. 99.—AN ACT FOR THE BENEFIT OF INSANE PERSONS.<sup>1</sup>**

§ 1. **Guardians to be Appointed: Their Duties.**—SECTION 1. *Be it enacted, etc.,* That the several probate courts in their respective counties in this Territory shall have power to appoint guardians to take the care, custody and management of all insane persons who are incapable of conducting their own affairs and their estates, real and personal, and to provide for the safe keeping of such persons, the maintenance of themselves and families and the education of their children.

\* \* \* \* \*

§ 2. **To File Inventory.**—SEC. 10. Within forty days after his appointment, such guardian shall make out and file in the office of the probate court by which he was appointed a just and true inventory of the real and personal estate of his ward, stating the income and profits thereof, and the debts, credits and effects, as the same shall have come to his view.

\* \* \* \* \*

§ 3. **Actions: Guardians to Represent.**—SEC. 13. It shall be the duty of every such guardian to prosecute all actions commenced at the time of his appointment, or thereafter to be commenced by or on account of his ward, and to defend all actions pending or which may be brought against such ward.

\* \* \* \* \*

§ 4. **Power of Probate Court.**—SEC. 15. Every probate court shall have power to make order \* \* \* to set apart and reserve, for the use of such family any property, real or personal, not necessary to be sold for the payment of debts; and to let, sell or mortgage any part of such estate, real or personal, when necessary for the payment of debts, the maintenance of such insane person or his family, or the education of his children.

§ 5. **When Sale of Property May be Ordered.**—SEC. 16. Whenever the personal estate of such person shall be found to be insufficient to meet the foregoing requisitions, it shall be the duty of such guardian to lay the same before the probate court by whom he was appointed, setting forth the particulars relative to the estate, real and personal, of such person, and the debts by him owing, accompanied by a correct and true account of his doings therewith; whereupon it shall be the duty of such court to make an order directing the mortgage, lease or sale, at his discretion, of the whole or such part of the real estate as may be necessary.

<sup>1</sup>See No. 21, § 2, subd. 35. (See LAWS OR. TER., Sess. 1843-49, p. 163; see also LAWS IOWA TER., R. S. 1843, p. 287.)

**§ 6. Court to Direct Time, Terms, etc., of Sale.**—SEC. 17. The court making such order shall direct the time and terms of such sale, mortgage or lease of such estate, and the manner in which the proceeds shall be applied; and shall give due notice thereof, together with a full description of the property to be thus disposed of, at which time and place it shall be the duty of the guardian to execute the order of said court, and to make a full report of his doings therein, which report shall be accompanied by the affidavit of the guardian verifying the report and stating that such guardian did not directly or indirectly become the purchaser thereof; or, if otherwise disposed of, that he is not directly or indirectly interested personally in the agreement.

**§ 7. When Sale Approved, Deed to Issue.**—SEC. 18. When any such sale, mortgage or lease is approved of by the court ordering the same, as having been performed according to law, and not under such circumstances as to operate prejudicial to the interest of such ward, it shall be the duty of the court to execute a deed, mortgage or other instrument of writing, which shall be as valid and effective in law as if executed by such ward when of sound mind and discretion.

\* \* \* \* \*

**§ 8. If Ward Dies, Estate Shall Descend.**—SEC. 23. In case of the death of any such ward while under guardianship, the power of the guardian shall cease, and the estate descend and be disposed of in the same manner as if said ward had been of sound mind; \* \* \*

\* \* \* \* \*

## CHAPTER II.—JUSTICE COURTS.

**No. 100.—AN ACT TO PROVIDE FOR THE ELECTION OF JUSTICES OF THE PEACE, TO PRESCRIBE THEIR POWERS AND DUTIES, AND TO REGULATE THEIR PROCEEDINGS.**<sup>1</sup>

### ARTICLE I.

**§ 1. Election of Justices.**—SECTION 1. *Be it enacted, etc.,* The qualified voters of each township organized by law in this Territory shall, \* \* \* elect the justices of the peace for their respective townships.

\* \* \* \* \*

**§ 2. Jurisdiction.**—SEC. 30. No justice of the peace shall have cognizance \* \* \* (3) of any action where the title to lands and tenements shall come in question.

\* \* \* \* \*

### ARTICLE VI.

\* \* \* \* \*

**§ 3. Transcript of Judgment.**—SEC. 15. Every justice, on the demand of any person in whose favor he shall have rendered judgment for more than ten [twenty-five] dollars, exclusive of costs, shall give to such person a certified transcript of such judgment, and the clerk of the district court of the same county in which the judgment was rendered shall, upon the production of any such transcript, file the same in his office and forthwith enter such judgment in the docket of the district court judgments and decrees, and shall note therein the time of filing such transcript.

<sup>1</sup> See No. 21, § 2, subd. 39. (See also Laws Iowa Ter., R. S. 1843, pp. 302 and 326.)

§ 4. **Effect of Judgment.**—SEC. 16. Every such judgment, from the time of such filing of the transcript thereof, shall have the same lien on the real estate of the defendant in the county as a judgment of the district court of the same county; shall be equally under the control of the district court, and shall be carried into execution in the same manner and with like effect as the judgments of such district court, but no execution shall be issued thereon out of the district court until an execution shall have been issued by a justice and returned, that the defendant has no goods or chattels whereon to levy the same.

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## TITLE V.—DIVORCE.

### No. 101.—AN ACT RELATIVE TO DIVORCE, ALIMONY AND OTHER PURPOSES.<sup>1</sup>

§ 1. **Jurisdiction—Action: Commencement and Venue of.**—SECTION 1. *Be it enacted, etc.,* That the district courts as courts of chancery shall have original jurisdiction in all cases of divorce and alimony, and guardianship connected therewith, and the like process and proceedings shall be had in all such cases as are had in other cases in equity. The bill of complaint shall be accompanied by an affidavit annexed thereto that the facts stated in said bill are true according to the best knowledge and belief of complainant, that the complaint is not made by collusion between the complainant and the defendant, nor through fear, restraint, or out of levity for the mere purpose of being separated from each other, but in sincerity and truth for the reason mentioned in said bill. The proceedings shall be in the county where the complainant resides, and the process of the court may be directed into any other county in the Territory where the defendant may reside.

§ 2. **Grounds for Divorce.**—SEC. 2. That divorces from the bonds of matrimony may be decreed for the following causes: (1) Where either of the parties at the time of the marriage was impotent. (2) Where either party had a lawful husband or wife living at the time of the marriage. (3) If either party shall have committed adultery subsequent to the marriage. (4) Where either party shall willfully desert the other and absent him or herself without reasonable cause for the space of one year. (5) Where either party shall be convicted of felony or infamous crime. (6)<sup>2</sup> \* \* \* (7) Where either party shall be guilty of such cruel and barbarous treatment as to endanger the life of the other. (8) When either party shall offer such indignities to the person of the other as shall render his or her situation intolerable. In all such cases the innocent and injured party may obtain a divorce from the bonds of matrimony; but no such divorce shall affect the legitimacy of children.

§ 3. **Residence Required.**—SEC. 3. That no person shall be entitled to divorce from the bonds of matrimony who has not resided in this territory six months next preceding the time of filing the bill therefor, unless the offense complained of was committed in this territory, or whilst one of the parties resided therein.

<sup>1</sup>See No. 21, § 2, subd. 24. (See also Laws Iowa Ter., R. S. 1843, p. 237.)

<sup>2</sup>Stricken out—See No. 21, § 2, subd. 24.



§ 4. **Collusion: Effect of.**—SEC. 4. That if it shall appear in evidence to the court that the offense or injury complained of shall have been occasioned by the collusion of the parties, or done with an intent to procure a divorce, and that the complainant consented thereto, or that both the parties have been guilty of adultery, then no divorce shall be decreed, and every such bill shall be dismissed with costs against the complainant.

§ 5. **Decree.**—SEC. 5. That whenever a divorce as aforesaid shall be decreed, the court shall make such order and decree touching the estate and property of the parties, the alimony and maintenance of the wife, the guardianship, custody, care and maintenance of children, as from the nature of the case and circumstances of the parties may appear to the court equitable and just. \* \* \*

§ 6. **Effect of Decree.**—SEC. 6. That whenever a divorce from the bonds of matrimony shall be decreed, the guilty party shall forfeit all right acquired by virtue of such marriage.

§ 7. **Subpena: Service by Publication.**—SEC. 7. That when the defendant to any bill of divorce is a non-resident of the Territory at the time of filing the bill, or where a subpena has been issued and returned *non est*, the complainant may have an order of publication for a decree *pro confesso* issued by the clerk of the court where the petition is pending: *Provided*, The order for publication be published in some newspaper printed in the Territory for eight successive weeks next before the succeeding term of said court. And in all cases if the defendant does not appear and answer said bill upon the return of said order, upon proof being made of the good conduct of the complainant, and to satisfy the court that the complainant is the innocent and injured party, the said court shall proceed to a final decree in the same manner and with the same effect as if the defendant had appeared and answered the complainant's bill.

§ 8. **Failure to Appear: Effect of.**—SEC. 8. That when a subpena has been personally served upon any defendant to a bill of divorce and such defendant fail to appear and answer said bill, the court may either enter a decree *pro confesso*, or compel an appearance and answer by attachment. \* \* \*

§ 9. **Personal Service on Non-Resident.**—SEC. 12. That in all cases of proceeding against a non-resident defendant for divorce, the plaintiff may cause personal service of the bill and subpena to be made on the defendant by some disinterested person, and by proof of service so made by the affidavit of the person making the same, or by his testimony in open court, the plaintiff may proceed to a decree in the same manner as if publication had been duly made and the defendant had not appeared: *Provided*, Such service shall have been made in time for the defendant to reach the place where the suit is pending by traveling at the rate of twenty miles per day, before the decree is made.

§ 10. **Disposition of Estate, etc.**—SEC. 13. That when a wife shall obtain a divorce from the bonds of matrimony all the estate and property that came to the husband by virtue of such marriage that remains undisposed of at the time of filing the bill, shall revert to and be settled in the decree of divorce upon the wife and children if there be any by the marriage. And if any part of such estate or property be invested in other property the court shall decree the value thereof out of the estate or property in which the same may have been thus invested. \* \* \*



## TITLE VI.—EJECTMENT.

**No. 102.—AN ACT TO ALLOW AND REGULATE THE ACTION OF RIGHT.<sup>1</sup>**

§ 1. **Proper Remedy for.**—SECTION 1. *Be it enacted, etc.,* That hereafter the proper remedy for recovering any interest in lands, tenements or hereditaments shall be by an action of right.

§ 2. **No Recovery Unless Valid Interest.**—SEC. 2. No person shall recover in this action unless, at the time of commencing it, he shall have had a valid, subsisting interest in the property claimed, and the right to recover the immediate possession thereof.

§ 3. **Venue of Action.**—SEC. 3. The action shall be brought in the district court of the county where the property claimed is situated. It shall be commenced by summons, and all the proceedings therein shall be assimilated, as nearly as practicable, to those in personal actions, except as herein otherwise provided.

§ 4. **Against Whom Action to be Brought.**—SEC. 4. The action may be brought against any person acting as owner, landlord or tenant of the property claimed.

§ 5. **Against Tenant: Duty of.**—SEC. 5. If brought against the tenant, he shall forthwith give notice thereof to the landlord, his agent or attorney. \* \* \*

\* \* \* \* \*

§ 6. **Summons: Service of.**—SEC. 7. The summons shall be served on the defendant personally, or, if he cannot be found, by leaving a copy thereof at his residence with some person of proper age.

§ 7. **Service on Agent.**—SEC. 8. If the defendant be a non-resident of the county, and have a known agent (in relation to the property for which the action was brought) therein, such summons may be served upon said agent in the same manner as though he were the principal.

§ 8. **Service on Non-Residents.**—SEC. 9. If being a non-resident as aforesaid, he having no such agent, the summons may be served either in this Territory or elsewhere by any person whatever, in the manner prescribed in section seventh.

§ 9. **Proof of Service.**—SEC. 10. Where a person other than the proper officer shall, in any case, serve such summons, said service must be duly shown to the court by affidavit accompanying the return of the writ and filed therewith, which shall fully state the manner of service.

§ 10. **Service by Publication.**—SEC. 11. Where the defendant is not to be found in the county in which the action is brought, instead of the mode of service authorized above, the plaintiff may cause an advertisement to be published in some newspaper printed most conveniently to the court where the suit was brought, which publication shall be continued weekly for the term of twelve weeks, in succession.

§ 11. **What Notice Must Contain.**—SEC. 12. Such advertisement shall contain the names of the parties, and the description of the property claimed, as stated in the summons, and shall require the defendant to appear and plead to the action on or before the first day of the term of the court next succeeding the termination of the time of publication as aforesaid, or that judgment will be rendered against him by default.

\* \* \* \* \*

<sup>1</sup>See No. 21, § 2, subd. 57. (See also Laws Or. Ter., Sess. 1843-49, p. 185; see also Laws Iowa Ter., R. S. 1843, p. 526.)

§ 12. **Judgments Conclusive.**—SEC. 33. Judgments, in actions of right, shall be as conclusive as in personal actions against the plaintiff, and all those defendants who shall appear and plead, and against those who, having been personally served with the summons aforesaid, shall make default.

\* \* \* \* \*

§ 13. **Limitation of Action in Certain Cases.**—SEC. 40. When the defendant was without the United States during the progress of the action against him he may, on his part, institute the action of right to recover possession of the same property at any time within two years after his return: *Provided*, The same be within seven years from the date of the judgment against him as aforesaid.

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§ 14. **Effect of Judgment Against Tenants.**—SEC. 42. Where the action is brought against a tenant the judgment shall be conclusive against his landlord, in case he received due notice of the pendency of the suit, either in the manner provided for in section fifth or otherwise.

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§ 15. **What Interests Not Prejudiced.**—SEC. 44. No determination of an action of right shall prejudice the interests of any person not a party to the suit, except in case of a landlord as aforesaid.

§ 16. **Basis of Recovery.**—SEC. 45. The plaintiff in this action can only recover upon the strength and validity of his own title.

§ 17. **Twenty Years a Bar.**—SEC. 46. Twenty years quiet possession under a claim of title adverse to that of the plaintiff shall be a bar to the action of right, except as hereinafter provided.

§ 18. **Insane and Other Persons.**—SEC. 47. Persons insane, or imprisoned, or minors, during any portion of the said twenty years, shall be allowed to commence said action at any time within two years after such disability has ceased.

§ 19. **Widow's Dower.**—SEC. 48. No widow shall commence this action for the recovery of her dower until after the expiration of six months from the death of her husband.

\* \* \* \* \*

§ 20. **When Action May be Brought in Either County.**—SEC. 55. Where the action is brought to recover any particular piece of property, lying partly in one county and partly in another, it may be instituted in the district court of either of said counties.

§ 21. **How Dower Assigned.**—SEC. 56. Any widow who shall have established her right to dower in any property by means of this action, shall have her dower assigned her in the following manner: (1) The court shall appoint three reputable and disinterested commissioners, who, after having been duly sworn to the honest, faithful and impartial discharge of their duty, shall proceed to lay off the said dower, designating the same by metes and bounds. (2) They shall make a written report of their proceedings in the premises to the next term of said court. (3) Said report may then be excepted to, and the court shall have power for good cause shown to set the same aside and direct a new commission, as before. (4) After the report of commissioners shall have been confirmed, a writ of possession shall be awarded, which shall be similar in its character to that provided for in other cases.

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**No. 103.—AN ACT TO ALLOW AND REGULATE THE ACTION OF EJECTMENT.<sup>1</sup>**

§ 1. **When May be Maintained.**—SECTION 1. *Be it enacted, etc.,* The action of ejectment may be maintained in all cases where the plaintiff is legally entitled to the possession of the premises.

§ 2. **Other Grounds.**—SEC. 2. The action of ejectment may also be maintained in all cases where the plaintiff claims possession of the premises under or by virtue of—(1) Any entry made with the register and receiver of the proper land office of the United States; (2) a preëmption right under the laws of the United States; (3) where an improvement has been made by him on any of the public lands of the United States, whether the lands have been surveyed or not, and where any person other than those to whom the right of action is given by the preceding clauses of this section is in possession of such improvements.

§ 3. **Who May Maintain.**—SEC. 3. The administrator or executor of any person who may have heretofore died, or who may hereafter die, who may have in his lifetime made improvements on any of the public lands of the United States, whether he had a right of preëmption to such improvements or not under the laws of the United States, or whether the lands on which such improvements may have been made have been surveyed or not, may maintain an action of ejectment for the recovery of such improvements to the same extent and with the same restrictions as provided by the preceding section for their testator or intestate.

§ 4. **Against Whom Shall be Brought.**—SEC. 4. The action of ejectment shall be brought and prosecuted in the real names of the parties thereunto, and may be brought against the person in possession of the premises claimed, or his lessor, or both.

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§ 5. **Period of Limitation.**—SEC. 18. No action of ejectment, when the plaintiff does not claim title to the lands, shall be brought or maintained when the plaintiff or his testator or intestate has been five years out of possession.

<sup>1</sup> See No. 21, § 2, subd. 28. (See also Laws Or. Ter., Sess. 1843-49, p. 149; see also Laws Iowa Ter., R. S. 1843, p. 258.)

**No. 104.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ALLOW AND REGULATE THE ACTION OF RIGHT AND THE ACTION OF EJECTMENT."<sup>1</sup>**

§ 1. **When Writ Returnable.**—SECTION 1. *Be it enacted, etc.,* That hereafter when any person shall commence an action of right, or an action of ejectment, to obtain the possession of lands or tenements, the summons or writ required by the acts to which this is amendatory shall be returnable to the next term of the district court after the issuing of said summons or writ.

\* \* \* \* \*

§ 2. **Not to Affect Certain Rights.**—SEC. 6. That this act shall not affect any right of action already accrued to any person, nor shall it affect any tenancy existing between any private individuals or private corporation, nor shall it affect or have any force over contracts, either verbal or written, between landlords and tenants hereafter to be made, but that the landlords may have the benefit of the act allowing and regulating the action of right or ejectment as though this act had never been enacted.

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<sup>1</sup> See No. 21, § 2, subd. 27. (See also Laws Or. Ter., Sess. 1843-49, p. 148; see also Laws Iowa Ter., R. S. 1843, p. 257.)

## TITLE VII.—EXECUTIONS.

**No. 105.—AN ACT SUBJECTING REAL AND PERSONAL ESTATE TO EXECUTION.<sup>1</sup>**

§ 1. **What Subject to.**—SECTION 1. *Be it enacted, etc.*, That the personal and real estate of every individual, company, body politic or corporate, including his, her or their goods, chattels, lands, tenements and hereditaments, and any title or equitable right to lands, whether under a certificate from any land office, or a title bond from any person for a warrantee deed, or any right whatever, to the possession of lands, be and the same are hereby made subject to execution, to be taken and sold, according to the provisions of this act: \* \* \*

§ 2. **Levy.**—SEC. 2. That hereafter when any writ of execution may issue against the goods, chattels, lands, tenements and hereditaments of any defendant or defendants, it shall be the duty of the sheriff, or other officer, to levy such execution upon such part of the estate of such defendant or defendants as he, she or they may direct, but if no such direction shall be given, the messuage, lands or tenements, on which such defendant or defendants may be chiefly situated shall not be levied upon unless a sufficiency of other property to satisfy the execution or executions in the hands of the officers cannot be found, and in all cases the real estate of execution defendants shall be exempt from levy and sale until the personal estate of such defendant shall be first levied upon and sold, unless such defendants voluntarily authorize the sale upon execution of their real estate: *Provided*, That nothing herein enacted shall be so construed so as to make it the duty of any sheriff or other officer to levy upon and sell on execution property selected for that purpose by any execution defendant or defendants, if there exist any reasonable doubts whether such defendant or defendants is or are the *bona fide* owners of such property so selected.

§ 3. **Exemption.**—SEC. 3. That hereafter when any execution shall issue to any sheriff or other officer against the goods and chattels, lands and tenements, of any defendant or defendants, if he, she or they have families, it shall be lawful for such defendant or defendants to claim as exempt from execution the following property, to wit: His or her homestead, not exceeding in value five hundred dollars, \* \* \* All property exempt from execution shall be exempt from attachment or other process of law, and it shall be the duty of the said officer not to execute any of the above exempt property.

§ 4. **When Writ Returnable.**—SEC. 4. That all executions hereafter issued from any of the courts of record of this Territory shall be made returnable within thirty days from the date of the same: *Provided*, That when said execution is directed to an officer of any other county than that in which the same is issued, there shall be one additional day for every twenty miles travel, calculating the distance from the county seat of the county from which said execution is issued to the county seat of the county into which the same is directed.

§ 5. **Notice of Sale.**—SEC. 5. That any sheriff or other officer levying an execution upon any real estate shall, previous to offering the same for sale, give at least four weeks notice of the time and place of such sale, by posting up written advertisements thereof in four of the most public places of the county in which such real estate may be situated, \* \* \*

<sup>1</sup>See No. 21, § 2, subd. 71. (See Laws Or. Ter., Sess. 1843-49, p. 205; see also Laws Iowa Ter., R. S. 1843, p. 628.)

**§ 6. In What Case Second Writ to Issue.**—SEC. 6. That if the estate of any execution defendant or defendants, taken and sold on execution by virtue of the provisions of this act, should fail to sell for a sum sufficient to satisfy the debt, damages and costs due and accruing upon such execution, the officer returning such execution shall make return of his doings thereon accordingly, and another writ of execution shall issue to be credited by indorsement made by the clerk or justice with the sum or sums previously paid or made on any previous execution; upon which writ of execution the proper officer shall proceed to levy and sell in the manner hereinbefore prescribed, making return of his doings thereon as in other cases, and in all cases, in addition to the above notifications of such sales, the officer shall give notice in writing to the defendant in execution, or leave such notice at his last or usual place of abode.

**§ 7. Who Shall Execute Deed in Case of Death, etc., of Officer Making Sale.**—SEC. 7. That when any sheriff or other officer who may have sold any real estate under the provisions of this act, shall, previous to making a deed therefor to the purchaser, go out of office by death, resignation, removal, or otherwise, it shall be the duty of the successor in office of such officers to make the necessary deeds to purchasers: *Provided*, The purchase money has been duly paid.

**§ 8. Property of Security—When to be Sold.**—SEC. 8. That if it shall appear on the face of any writ or execution, or by indorsement thereon made by the officer issuing the same, that any one of the persons against whom the same may be issued is only security for any one or more of the persons against whom such execution may have been issued, the officer executing the same shall first sell so much of the estate of the principal defendant or defendants named in such execution as he may be able to find, before he shall sell any of the estate of such security or securities, unless such officer may be otherwise directed by such security or securities.

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**§ 9. Writ May be Directed to Any County.**—SEC. 16. That the clerks of the district court may, upon request, issue executions, directed to the proper officer of any county within this Territory, whose duty it shall be to obey and execute the same and make due return thereof to the officer who issued the same according to the provisions of this act, \* \* \*

\* \* \* \* \*

**§ 10. Real Estate of Testator: How Subjected to Execution.**—SEC. 19. That no real estate of any testator or intestate shall be subject to execution upon any judgment against the executor or administrator of such testator or intestate, until the devisees of such testator and the terretenants of such real estate be first made parties to such judgment in the following manner, to wit: Where any judgment shall be obtained against any executor or administrator to be levied of the goods and chattels of the deceased and execution issued thereon shall remain unsatisfied, in whole or in part, for want of personal estate, and there is real estate in this Territory, it shall be lawful for the plaintiff in such judgment to file in the proper court, where such judgment is obtained, a petition against the executors or administrators, and heirs and devisees, if any, of the deceased, setting forth the facts of the judgments and the want of personal property, and that there is real estate in the Territory of Oregon, describing the same, and setting forth in what county or counties the same is situated, and praying said court to award the proper writ or writs of execution against the same, and the clerk of said court shall, upon filing such petition, notify the persons against whom it is filed of the pendency thereof, requiring them to appear on the first day of the next term of said court and show cause, if any they can, why the proper writ or writs of execution shall not be awarded, which said notice shall

be given to residents by summons served by the proper officer, and to non-residents by publishing the same in the nearest newspaper for four weeks, successively, and if a summons, it shall be served on residents ten days before the sitting of the court, and be published to non-residents as aforesaid, the court shall, at the first term, award the proper writ or writs of execution, directed to the proper officer of the proper county, unless good cause to the contrary be shown; and the non-age of heirs or devisees shall not, in any case, be good cause to suspend execution.

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§ 11. **Deeds to be Recorded.**—SEC. 22. All deeds of real estate made by any sheriff or other officer under this act shall be recorded in the same manner as other deeds of real estate are now required by law to be recorded; and in failure of such record, such deeds shall not be valid as against an innocent purchaser without notice.

## TITLE VIII.—FRAUDS, STATUTE OF.

### No. 106.—AN ACT TO PREVENT FRAUDS.<sup>1</sup>

§ 1. **All Interests in Lands Must be in Writing.**—SECTION 1. *Be it enacted, etc.,* That all leases, estates, interest of freehold or term of years, or any uncertain interest of freehold or term of years, or any uncertain interest of, in or out of any messuages, lands, tenements or hereditaments, made or created by livery and seizin only or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any consideration for making any such parol leases or estates, or any former law or usage, to the contrary notwithstanding.

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§ 2. **Assignments Must be in Writing.**—SEC. 3. And moreover, that no leases, estates or interest of freehold, or of term of years, or any uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments, shall at any time be assigned or granted, unless it be by deed or note in writing, signed by the party so assigning or granting the same, or their agents thereunto lawfully authorized by writing, or by act or operation of law.

§ 3. **Actions Upon Contracts Not in Writing.**—SEC. 4. No action shall be brought whereby to charge any executor or administrator, or upon any special promise, \* \* \* or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them, or upon any agreement which is not to be performed within one year from the making thereof, unless the agreement upon which such action shall be brought, or some note or memorandum thereof shall be in writing, and signed by the party to be charged thereby, or some person by him thereunto lawfully authorized.

§ 4. **Trusts, etc.: How Manifested.**—SEC. 5. All declarations or creations of trust or confidence of any lands, tenements or hereditaments shall be manifested and proved by some writing signed by the party who

<sup>1</sup> See No. 21, § 2, subd. 31. (See Laws Or. Ter., Sess. 1843-49, p. 153; see also Laws Iowa Ter., R. S. 1843, p. 270.)



by law may be entitled to declare such trust or confidence, or by his last will in writing, or else the same shall be utterly void and of none effect: *Provided always*, That when any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise, or result by the implication or construction of law, or be transferred or extinguished by any act or operation of law, then, and in every such case, such trust or confidence shall be of the like force and effect as the same would have been if this act had never been passed, anything herein contained to the contrary notwithstanding.

§ 5. **Lien of Judgments: Transcripts.**—SEC. 6. Judgments in the district and Supreme Courts of this Territory shall have the operation of and shall be liens upon the real estate of the person or persons against whom such judgments may be rendered, from the day of the rendition thereof, in the county within which such judgments may be rendered; and it shall be the duty of the clerks of such courts, when applied to by any person interested in any judgment rendered by any of the courts aforesaid, to make out and deliver to such applicant an attested copy of the record of such judgment, authenticated by the seal of such court, which attested copy may be by such person filed in the office of any clerk of the district court within this Territory; and, when so filed, the said clerk in whose office the same may be filed, shall record the same among the records of the court of which he is clerk, and enter the same on the judgment docket; and such attested copy, when so filed, recorded and entered as aforesaid, shall operate as a lien upon the estate of the person or persons against whom such judgment may have been rendered, situate in the county in which the same may have been so filed as aforesaid, recorded and entered in the same manner and to the same legal extent that the same would have done had such judgment been originally rendered in the district court of such county; which lien shall operate from the day of filing, recording and entering such copy as aforesaid; but no execution shall ever issue upon such attested copy, although the record thereof shall have the same force and effect in every other point of view as any other record of such court might or could have.

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## TITLE IX.—LIENS OF MECHANICS.

### No. 107.—AN ACT RELATIVE TO MECHANICS' LIENS, AND OTHER PURPOSES.<sup>1</sup>

§ 1. **What Subject to.**—SECTION 1. *Be it enacted, etc.*, That in all cases hereafter when any contract shall be made between the owner of any tract of land or town lot, or the lessee of any tract of land or town lot, with the owner's knowledge or consent, on the one part, and any person on the other part, for the erecting or repairing any house or other building, mill or machinery, or their appurtenances, or for furnishing labor or materials for the purposes aforesaid, and every other person who may have furnished materials which may have been used in the construction of such house, building or mill, by agreement, the person who shall, in pursuance of such contract, have furnished labor or materials for such purpose, shall, respectively, have a lien to secure the payment of the same, upon such house or other building, mill or machinery, and on the

<sup>1</sup>See No. 21, § 2, subd. 42. (See also Laws Iowa Ter., R. S. 1843, p. 380.)



tract of land or lot on which the same shall have been erected, in proportion to the labor done or materials furnished; and the owner or lessee of said ground shall not be able to convey the same free from the said lien created by this act, nor shall the same be sold by legal process so as to avoid said lien unless upon judgment rendered before such building, mill or repairs were commenced.

§ 2. **How Secured.**—SEC. 2. When any person shall wish to avail himself of the benefit of such lien, he shall commence his action in any court having jurisdiction of the same within one year from the time payment should have been made, by virtue of any such contract by which such lien shall have been claimed, or within six months after the decision of any suit that such person may bring within that time, for the debt that may be due for work done or materials furnished in erecting such building, mill or machinery, or appurtenances thereto, \* \* \*

§ 3. **Execution.**—SEC. 3. The clerk of the court, when judgment has been had under the provisions of this act, on application, shall issue a special execution, directed to the sheriff of the proper county, describing the property upon which said lien is made to operate and out of which said judgments and costs are to be collected; and no other property of said defendant in any suit as aforesaid shall be bound for the payment of said judgment, unless the claimant shall hold collateral security for the payment of the same.

§ 4. **How Enforced.**—SEC. 4. Any person wishing to avail himself of the benefit of the lien under this act, by suit before a justice of the peace, shall, upon the commencement of such suit, file an account setting forth with common certainty the property upon which said lien is intended to be made to operate, and whether it is for work done or materials furnished; and upon trial of such cause the justice of the peace trying the same shall hear the proof, and if it shall appear that the defendant in such cause is indebted to the plaintiff, he shall give judgment for the amount so due. And on application of the plaintiff said justice of the peace shall give a transcript of the judgment, together with a description of property subject thereto, and said judgment and description of property so subject thereto shall be filed in the clerk's office of the proper county in which said judgment shall have been rendered, and when filed it shall have the same effect as a judgment of the district court, and execution shall issue in the same manner and have the same effect as an execution issued upon a judgment rendered in the district court under this act: *Provided*, That either of the parties in such suit shall have the same right to appeal that is or hereafter may be allowed from the judgment of justices of the peace in other cases.

§ 5. **Summons.**—SEC. 5. *And it is further enacted*, That upon filing the bill or petition or account provided for in this act, the clerk of the district court of the proper county, or justice of the peace, shall issue a summons against the debtor in the usual form, with an indorsement signed by said clerk, justice or plaintiff, or his attorney, stating the nature of the action.

§ 6. **Service of Summons.**—SEC. 6. That said writ shall be served in like manner as a summons in an ordinary suit upon the person therein named, if to be found in the county; if not to be found in the county, then the same notice shall be given as is required by law in cases of writs of attachment, when the summons has been returned "defendant not found."

§ 7. **Judgment.**—SEC. 7. That upon return of service and failure of defendant to appear, the court or justice of the peace shall render judgment according to the justice and equity of the case; \* \* \*

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## TITLE X.—LIMITATION OF ACTIONS.

### No. 108.—AN ACT FOR THE LIMITATION OF ACTIONS, AND FOR AVOIDING VEXATIOUS LAW SUITS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Entry Into Lands, etc.**—SEC. 6. That no person who now hath or hereafter may have any right of entry into any land, tenements or hereditaments, shall make an entry but within twenty years next after such right shall have accrued, and such person shall be barred from any entry afterwards.

§ 3. **To Recover Real Property—Disabilities.**—SEC. 7. That every real, possessory, ancestral or mixed action, or writ of right, or action of ejectment, brought for the recovery of any lands, tenements or hereditaments shall be brought within twenty years next after the right or title thereto or cause of such action accrued, and not after: *Provided*, That in the foregoing cases in this section mentioned the person or persons who shall have right of entry, title or cause of action is, are, or shall be, at the time of such right of entry, title or cause of action, under the age of twenty-one years, insane, *feme covert*, or beyond the limits of this Territory, such person or persons may make such entry or institute such action at any time within twenty years after the removal of such disability, and not afterwards. And that in all cases in the former sections of this act mentioned, when the person or persons who shall have the cause of action is, are or shall be at the time of such cause of action under the age of twenty-one years, insane, or *feme covert*, such person or persons may institute such action at any time within the period limited in said former sections, after the said disabilities shall cease, and not afterwards.

\* \* \* \* \*

§ 4. **Appeal, Reversal, etc.**—SEC. 9. That if in any of the said actions, specified in any of the preceding sections of this act, judgment be given for the plaintiff and the same be reversed by writ of error, or upon appeal unless a verdict pass for the plaintiff and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, or if the plaintiff be non-suited, then if the time limited for bringing such action shall have expired during the pendency of such suit, the said plaintiff, his or her heirs, executors or administrators, as the case shall require, may commence a new action within one year after such judgment is reversed or given against the plaintiff, and not after.

\* \* \* \* \*

<sup>1</sup>See No. 21, § 2, subd. 44. (See also Laws Iowa Ter., R. S. 1843, p. 384.)

## TITLE XI.—MINORS, ORPHANS AND GUARDIANS.

### No. 109.—AN ACT CONCERNING MINORS, ORPHANS AND GUARDIANS.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup>See No. 21, § 2, subd. 45. (See also Laws Iowa Ter., R. S. 1843, p. 480.) This act is *verbatim* as No. 88, *supra*.

## TITLE XII.—MORTGAGES.

No. 110.—AN ACT CONCERNING MORTGAGES.<sup>1</sup>

§ 1. **How Executed.**—SECTION 1. *Be it enacted, etc.,* That all mortgages, whether for real or personal estate, shall be acknowledged before some person authorized by law to take the acknowledgment of deeds, and shall be recorded, if for lands, in the county or counties in which the lands lie. \* \* \*

§ 2. **Lien of.**—SEC. 2. Every mortgage, whether for real or personal property, shall be a lien on the mortgaged property from the time the same is filed in the recorder's office for record; which filing shall be notice to all persons of the existence of such mortgage.

§ 3. **Duty of Recorder.**—SEC. 3. It shall be the duty of the recorder to indorse on every mortgage filed in his office for record, and note in the record, the precise time such mortgage was filed for record.

§ 4. **Foreclosure.**—SEC. 4. All mortgagees of real estate \* \* \* may file a petition in the office of the clerk of the district court against the mortgagor, and the actual occupiers of such real estate, if any, setting forth the substance of the mortgage deed, and praying that judgment may be rendered for the debt, and that the equity of redemption may be foreclosed, and that the mortgaged property may be sold to satisfy the amount due.

§ 5. **Venue of Action for Foreclosure.**—SEC. 5. If any part of the property be real estate, the petition may be filed in any county where any part of the mortgaged premises are situated; \* \* \*

§ 6. **Summons: Service of, etc.**—SEC. 6. The clerk of the district court shall issue a summons commanding the defendant to appear and answer such petition at the return day thereof, and if there be two or more defendants, and they reside in different counties, a separate summons shall be directed to each county including all the defendants therein, and the service and return of such summons shall be made as in actions at law.

\* \* \*  
§ 7. **Service by Publication, etc.**—SEC. 7. If a return be made of such summons that any defendant cannot be found, an alias summons may be issued to the same or any other county, or publication may be made and proceedings therein had as in similar cases in courts of chancery.

§ 8. **Unknown Defendants.**—SEC. 8. Defendants whose names are unknown may be sued, and orders of publication may be made as in suits of chancery.

\* \* \*  
§ 9. **Default and Judgment.**—SEC. 10. If any person summoned or notified as aforesaid, thirty days previous to the return of such summons, do not appear and answer such petition at the time required, judgment shall be rendered by default, and proceedings had thereon as in actions at law.

\* \* \*  
§ 10. **Sale of Mortgaged Premises.**—SEC. 12. If upon trial it be found that any part of the mortgage money is unpaid, and that the petitioner is entitled to recover the same, the court shall render judgment for the debt, interest and costs, and shall make an order that the mortgaged property

<sup>1</sup> See No. 21, § 2, subd. 47. (See Laws Or. Ter., 1843-49, p. 174; also Laws Iowa Ter., R. S. 1843, p. 442.)

be sold, describing the same as in the mortgage, or so much thereof as is sufficient to satisfy the amount found due, with interest thereon until paid.

§ 11. **Execution.**—SEC. 13. Upon such order a special writ of *feri facias* shall be issued, directed to the sheriff, referring to the order of sale, and commanding the sheriff that of the real and personal estate, in such order specified, he cause to be levied the debt, damages and costs, together with interest thereon from the date of the judgment, which shall be specially stated in the writ, and that he have the money at the return day of such writ.

§ 12. **How Writ Returnable.**—SEC. 14. Such writs shall be returnable as other executions, and the advertisement, sale and conveyance of real and personal estate under the same shall be made as under other executions.

§ 13. **How Directed.**—SEC. 15. If such mortgage be for real estate, such writ of *feri facias* shall be directed to the county in which the same is situate, \* \* \*

§ 14. **Proceedings When Mortgaged Property Insufficient.**—SEC. 16. If the whole of the mortgaged property does not sell for a sum sufficient to satisfy the amount due, an execution may be issued against the defendant as on ordinary judgments.

§ 15. **How Mortgage Satisfied.**—SEC. 17. If any mortgagee, his executor, administrator or assignee, shall receive full satisfaction for the amount due on any mortgage, he shall, at the request of the person making satisfaction, acknowledge satisfaction thereof on the margin of the record in which such mortgage is recorded.

§ 16. **Penalty in Case Satisfaction Refused.**—SEC. 18. If any person thus receiving satisfaction do not within sixty days, after being requested, acknowledge satisfaction as aforesaid, he shall forfeit to the party aggrieved any sum not exceeding the amount of the mortgage money, to be recovered by an action of debt in any court of competent jurisdiction.

§ 17. **Effect of Satisfaction.**—SEC. 19. Such acknowledgment of satisfaction, made as aforesaid, shall have the effect to release the mortgage and bar all actions brought thereon, and revest in the mortgagor or his legal representatives all title to the mortgaged property.

§ 18. **Redemption.**—SEC. 20. If such mortgaged property be redeemed by payment to the officer before the sale, such officer shall make a certificate thereof and acknowledge the same before some officer authorized to take the acknowledgment of deeds for lands, and such certificate shall be recorded in the office in which the mortgage is recorded, and shall have the same effect as satisfaction entered on the margin of the record.

## TITLE XIII.—NOTARIES PUBLIC.

### No. 111.—AN ACT TO PROVIDE FOR THE APPOINTMENT OF NOTARIES PUBLIC, AND TO PRESCRIBE THEIR DUTIES.<sup>1</sup>

§ 1. **Who May Appoint.**—SECTION 1. *Be it enacted, etc.,* That the governor of this Territory, by and with the advice and consent of the council, may appoint and commission one or more notaries public in each

<sup>1</sup> See No. 21, § 2, subd. 49. (See also Laws Iowa Ter., R. 8. 1843, p. 449.)

organized county, who shall hold their office three years, unless sooner removed.<sup>2</sup>

\* \* \* \* \*

§ 2. **Powers of.**—SEC. 6. Each notary public shall procure a seal, which shall be called the "notarial seal," and he shall have full power and authority to administer oaths, and take acknowledgments or proofs of deeds, mortgages, powers of attorney and other instruments of writing, with or without the release and assignment of dower.

\* \* \* \* \*

<sup>2</sup> Section 1 amended so that notaries elected by joint vote of both houses of Assembly: see No. 21, § 2, subd. 49.

## TITLE XIV.—PUBLIC LANDS.

**No. 112.—AN ACT TO PROVIDE FOR THE COLLECTION OF DEMANDS GROWING OUT OF CONTRACTS FOR SALE OF IMPROVEMENTS ON PUBLIC LANDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> See No. 21, § 2, subd. 51. (See also Laws Iowa Ter., R. S. 1843, p. 456.) This act is *verbatim* as No. 91, *supra*.

## TITLE XV.—TOWN PLATS.

**No. 113.—AN ACT TO PROVIDE FOR THE RECORDING OF TOWN PLATS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> See No. 21, § 2, subd. 65. (See also Laws Iowa Ter., R. S. 1843, p. 607.) This act is *verbatim* as No. 93, *supra*, as amended by No. 21, § 2, subd. 65.

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PART III.

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TERRITORY OF WASHINGTON.

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## SUBJECT I.

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### **No. 114.—AN ACT TO ESTABLISH THE TERRITORIAL GOVERNMENT OF WASHINGTON.<sup>1</sup>**

**§ 1. Boundaries—Indians—Missionary Stations.**—*Be it enacted, etc.,* That from and after the passage of this act, all that portion of Oregon Territory lying and being south of the forty-ninth degree of north latitude and north of the middle of the main channel of the Columbia River, from its mouth to where the forty-sixth degree of north latitude crosses said river, near Fort Walla Walla, thence with said forty-sixth degree of latitude to the summit of the Rocky Mountains, be organized into and constitute a temporary government by the name of the Territory of Washington: *Provided*, That nothing in this act contained shall be construed to affect the authority of the government of the United States to make any regulation respecting the Indians of said Territory, their lands, property or other rights, by treaty, law or otherwise, which it would have been competent to the government to make if this act had never been passed: *Provided further*, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, or that may have been so occupied as missionary stations prior to the passage of the act establishing the Territorial government of Oregon, together with the improvements thereon, be and is hereby confirmed and established to the several religious societies to which said missionary stations respectively belong.

\* \* \* \* \*

**§ 2. Legislative Power.**—**SEC. 6.** *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly shall be submitted to the congress of the United States, and, if disapproved, shall be null and of no effect: \* \* \* And all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void. And all taxes shall be equal and uniform; and no distinctions shall be made in the assessments between different kinds of property, but the assessments shall be according to the value thereof: To avoid improper influences, which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

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**§ 3. Judicial Power.**—**SEC. 9.** *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court

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<sup>1</sup> Approved March 2, 1853. (See U. S. Stat. at Large, vol. 10, p. 172.)

shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; \* \* \* The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any case in which the title to land shall in any wise come in question, \* \* \* and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the constitution of the United States and the laws of said Territory, as is vested in the circuit and district courts of the United States; writs of error and appeal in all such cases shall be made to the supreme court of said Territory the same as in other cases. \* \* \*

\* \* \* \* \*

§ 4. **Laws Already Enacted.**—SEC. 12. *And be it further enacted*, That the laws now in force in said Territory of Washington, by virtue of the legislation of congress in reference to the Territory of Oregon, which have been enacted and passed subsequent to the first day of September, eighteen hundred and forty-eight, applicable to the said Territory of Washington, together with the legislative enactments of the Territory of Oregon, enacted and passed prior to the passage of and not inconsistent with the provisions of this act, and applicable to the said Territory of Washington, be and they are hereby continued in force in said Territory of Washington until they shall be repealed or amended by future legislation.

\* \* \* \* \*

§ 5. **Pending Suits, etc.**—SEC. 15. *And be it further enacted*, That all suits, plaints, process, and proceedings, civil \* \* \* at law and in chancery, \* \* \* which shall be pending and undetermined in the courts established within and for said Territory of Oregon, by act of congress, entitled "An act to establish the territorial government of Oregon," approved August fourteen, one thousand eight hundred and forty-eight, wherein the venue in said cases, suits at law, or in chancery, \* \* \* shall be included within the limits hereinbefore declared and established for the said Territory of Washington; then, and in that case, said actions so pending in the supreme or circuit courts of the Territory of Oregon shall be, by the clerks of said courts, duly certified to the proper courts of said Territory of Washington; and thereupon said causes shall, in all things concerning the same, be proceeded on, and judgments, verdicts, decrees, \* \* \* rendered thereon, in the same manner as if the said Territory had not been divided. All bonds, recognizances and obligations of every kind whatsoever, valid under the existing laws within the limits of the said Territory of Oregon, shall be held valid under this act, \* \* \* and all \* \* \* actions, and causes of actions, may be recovered and enforced, under this act, before the supreme and circuit courts established by this act as aforesaid: *Provided*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the legislative assembly of the Territory of Oregon, and which may be declared contrary to the constitution or laws of the United States.

\* \* \* \* \*

§ 6. **Judicial Districts.**—SEC. 18. *And be it further enacted*, That until otherwise provided for by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the

times and places for holding courts in the several counties or subdivisions of each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem expedient and proper.

\* \* \* \* \*

§ 7. **School Lands.**—SEC. 20. *And be it further enacted,* That when the lands in said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market or otherwise disposing thereof, sections numbered sixteen and thirty-six in each township in said Territory shall be and the same are hereby reserved for the purpose of being applied to common schools in said Territory. And in all cases where said sections sixteen and thirty-six, or either or any of them, shall be occupied by actual settlers prior to survey thereof, the county commissioners of the counties in which said sections so occupied as aforesaid are situated, be and they are hereby authorized to locate other lands to an equal amount in sections, or fractional sections, as the case may be, within their respective counties, in lieu of said sections so occupied as aforesaid.

\* \* \* \* \*

## SUBJECT II.

LAWS ENACTED BY THE TERRITORY OF WASHINGTON FROM  
MARCH 2, 1853, TO NOVEMBER 11, 1889.

### DIVISION I.—GENERAL LAWS.

#### TITLE I.—ACTIONS.

##### CHAPTER I.—COMMON LAW AND FORMS OF ACTIONS.

**No. 115.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN  
CIVIL ACTIONS.<sup>1</sup>**

###### CHAPTER I.

§ 1. **Civil Action.**—SECTION 1. *Be it enacted, etc.,* That all common law forms of action, and all distinctions between law and equity are hereby abolished, and hereafter there shall be in this Territory but one form of action, to establish and enforce private rights, which shall be called a civil action.

\* \* \* \* \*

###### CHAPTER LIV.

\* \* \* \* \*

§ 2. **Repealing Clause.**—SEC. 506. All laws inconsistent with the provisions of this act are hereby repealed, but the repeal shall not operate to revive any former act. All rights of action secured by existing laws may be prosecuted in the manner provided in this act.

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 221.)

**No. 116.—AN ACT TO REPEAL THE LAWS OF OREGON TERRITORY NOW  
IN FORCE IN WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Repeal of Oregon Laws — Common Law.**—SECTION 1. *Be it enacted, etc.,* That all laws heretofore in force in this Territory, by virtue of any legislation of the Territory of Oregon, be and the same are hereby repealed: *Provided,* That nothing in this act shall be so construed as to change any county seat, or county lines, established by said laws of Oregon, or to render invalid any proceeding commenced under and by virtue of said laws: *And provided further,* That the common law in all civil cases, except where otherwise provided by law, shall be in force.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 31, 1856. (See Third Reg. Sess. 1855-56, p. 7.) In effect from date.

**No. 117.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

CHAPTER I.

§ 1. **Civil Action.**—SECTION 1. *Be it enacted, etc.,* That all common law forms of action, and all distinctions between law and equity, are hereby abolished; and hereafter there shall be in this Territory but one form of action to establish and enforce private rights, which shall be called a civil action.

\* \* \* \* \*

CHAPTER L.

\* \* \* \* \*

§ 2. **Repealing Clause.**—SEC. 500. The act of the first legislative assembly, entitled "An act to regulate the practice and proceedings in civil actions," and the amendatory acts thereto, passed January 27, 1857, and all laws and parts of laws inconsistent herewith, be and the same are hereby repealed, but the repeal thereof shall not revive any former act; and this act is hereby declared as the code of practice in civil actions in the district courts of this Territory, and all rights of action secured by existing laws may be prosecuted in the manner prescribed herein.

<sup>1</sup>Passed January —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3 and 102).

**No. 118.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

CHAPTER I.

§ 1. **Common Law.**—SECTION 1. *Be it enacted, etc.,* That the common law of England, so far as it is not repugnant to or inconsistent with the constitution and laws of the United States and the organic act and laws of Washington Territory, shall be the rule of decision in all the courts of this Territory.

§ 2. **Civil Actions.**—SEC. 2. All common law forms of action, and all distinctions between law and equity are hereby abolished; and hereafter there shall be in this Territory but one form of action to establish and enforce private rights, which shall be called a civil action.

\* \* \* \* \*

CHAPTER LIII.

\* \* \* \* \*

§ 3. **Repealing Clause.**—SEC. 547. All acts or parts of acts heretofore enacted upon any subject-matter contained in this act, be and the same are hereby repealed: *Provided.* That rights acquired in actions now pending under existing laws shall not be affected by anything herein contained.

\* \* \* \* \*

<sup>1</sup>Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81 and 197.) In effect from date.

**No. 119.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3 and 175, chap. 1, secs. 1, 2; chap. 63, sec. 70L.) This number is *verbatim* as No. 118, *supra*.

**No. 120.—AN ACT TO AMEND AN ACT ENTITLED “AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS,” APPROVED DECEMBER 2, 1869.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,*

§ 2. **Common Law.**—SEC. 2. All common law forms of action are hereby abolished, but the distinction between actions at law and suits in chancery shall be preserved; \* \* \*

§ 3. **Repealing Clause.**—SEC. 3. All acts or parts of acts contrary or inconsistent with the provisions of this act are hereby repealed: *Provided*, That rights acquired in actions now pending under existing laws shall not be affected by anything herein contained.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Blen. Sess. 1871, p. 3.)

**No. 121.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

CHAPTER I.

§ 1. **Common Law.**—SECTION 1. *Be it enacted, etc.,* That the common law of England, so far as it is not repugnant to or inconsistent with the constitution and laws of the United States and the organic act and laws of Washington Territory, shall be the rule of decision in all the courts of this Territory.

§ 2. **Civil Action.**—SEC. 2. There shall be in this Territory hereafter but one form of action for the enforcement or protection of private rights and the redress of private wrongs, which shall be called a civil action.

\* \* \* \* \*

CHAPTER LXIII.

\* \* \* \* \*

§ 3. **Repealing Clause.**—SEC. 699. All acts or parts of acts heretofore enacted upon any subject-matter contained in this act be and the same are hereby repealed: *Provided*, That rights acquired in actions now pending under existing laws shall not be affected by anything herein contained.

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Blen. Sess. 1873, pp. 3 and 179.)

**No. 122.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

CHAPTER I.

§ 1. **Common Law.**—SECTION 1. *Be it enacted, etc.,* That the common law of England, so far as it is not repugnant to or inconsistent with the constitution and laws of the United States and the organic act and laws of Washington Territory, shall be the rule of decision in all the courts of this Territory.

§ 2. **Civil Actions.**—SEC. 2. There shall be in this Territory hereafter but one form of action for the enforcement or protection of private rights and the redress of private wrongs, which shall be called a civil action.

\* \* \* \* \*

CHAPTER LXII.

\* \* \* \* \*

§ 3. **Repealing Clause.**—SEC. 764. All acts or parts of acts heretofore enacted upon any subject-matter contained in this act be and the same are hereby repealed: *Provided*, That rights acquired in actions now pending under existing laws shall not be affected by anything herein contained.

§ 4. **When to Take Effect.**—SEC. 765. This act shall take effect and be in force from and after the first day of January, 1878.

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3 and 153).

**No. 123.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code, 1881, p. 35, chap. 1, secs. 1, 2). This No. is *verbatim* as §§ 1, 2 of No. 122. For repealing clause, date when in effect, etc., see Nos. 338, 339, 840.

CHAPTER II.—ARBITRATIONS.

**No. 124.—AN ACT RELATING TO ARBITRATIONS.<sup>1</sup>**

§ 1. **What Controversies May be Arbitrated.**—SEC. 1. *Be it enacted, etc.*, That it shall be lawful for all persons desirous to end, by arbitration, any controversy, suit or quarrel, except such as respect the title to real estate, to submit their matters of differences to the award or umpirage of any person or persons mutually selected.

\* \* \* \* \*

§ 2. **Award: Force of.**—SEC. 11. Such award \* \* \* shall be in all respects like any other judgment of the district court; and a transcript of such judgment, or an execution issued thereon, recorded in the county auditor's office, in the same manner as other judgments, shall be a lien upon real estate in said county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 25, 1860. (See Seventh Reg. Sess. 1859-60, p. 323).

**No. 125.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XIX.

\* \* \* \* \*

§ 2. **What Controversies May be Arbitrated.**—SEC. 281. All persons desirous to end, by arbitration, any controversy, suit or quarrel, except such as respect the title to real estate, may submit their difference to the award or umpirage of any person or persons mutually selected.

\* \* \* \* \*

§ 3. **Award: Force of.**—SEC. 241. Such award, when so affirmed, shall be in all respects like any other judgment of the district court; and a transcript of such judgment, or execution issued thereon, recorded in the county auditor's office, in the same manner as other judgments, shall be a lien upon real estate in said county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, p. 81.) In effect from date. For repealing clause see No. 118, § 3.



**No. 126.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 3, chap. 20, secs. 266, 276.) For repealing clause see Nos. 118 and 119, § 3. This No. is *verbatim* as No. 125, *supra*.

**No. 127.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 3, chap. 20, secs. 264, 274.) For repealing clause see No. 121, § 3. This No. is *verbatim* as No. 125, *supra*.

**No. 128.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, p. 3, chap. 20, secs. 268, 278.) This No. is *verbatim* as No. 125, *supra*. In effect January 1, 1888. For repealing clause see No. 122, §§ 3, 4.

**No. 129.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code, 1881, pp. 35, 76, chap. 20, secs. 264, 274.) This No. is *verbatim* as No. 125, *supra*. For repealing clause, date when in effect, etc., see Nos. 338, 339, 340.

### CHAPTER III.—LIMITATIONS, STATUTE OF.

**No. 130.—AN ACT REGULATING THE TIME WITHIN WHICH CIVIL ACTIONS MAY BE COMMENCED.<sup>1</sup>**

§ 1. **Periods of Limitation.**—SECTION 1. *Be it enacted, etc.*, That actions can only be commenced within the periods herein prescribed, after the cause of action shall have accrued, except when in special cases a different limitation is prescribed by statute. \* \* \*

§ 2. **Within Twenty Years.**—SEC. 2. The period prescribed in the preceding section for the commencement of actions shall be as follows: Within twenty years—(1) Actions for the recovery of real property, or for the recovery of the possession thereof, and no action shall be maintained for such recovery unless it appear that the plaintiff, his ancestor, predecessor or grantor, was seized or possessed of the premises in question within twenty years before the commencement of the action. \* \* \*

\* \* \*

§ 3. **Limitations Apply to Territory.**—SEC. 9. The limitations prescribed in this act shall apply to actions brought in the name of the Territory, or for its benefit, in the same manner as to actions by private parties.

§ 4. **Effect of Absence or Concealment.**—SEC. 10. If when the cause of action shall accrue against any person who shall be out of the Territory or concealed, such action may be commenced within the terms herein respectively limited after the return of such person into the Territory, or

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 362).

the time of his concealment, and after such cause of action shall have accrued, such person shall depart from and reside out of this Territory or conceal himself, the time of his absence or concealment shall not be deemed or taken as any part of the time limited for the commencement of such action.

§ 5. **Disability: Minor, Insane, Married Woman.**—SEC. 11. If a person entitled to bring an action mentioned in this act, except for a penalty or forfeiture, or against a sheriff or other officer for an escape, be at the time the cause of action accrued, either (1) within the age of twenty-one years, (2) insane, (3) a married woman, the time of such disability shall not be a part of the time limited for the commencement of the action.

§ 6. **Death During Disability.**—SEC. 12. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his representatives after the expiration of the time and within one year from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced against his representatives after the expiration of that time and within one year after the issuing of letters testamentary or of administration.

§ 7. **Alien, etc.**—SEC. 13. When a person shall be an alien subject, or a citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

§ 8. **Injunction—Statutory Prohibition.**—SEC. 14. When the commencement of an action is stayed by injunction or a statutory prohibition the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

§ 9. **Effect of Reversal of Judgment.**—SEC. 15. If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on error or appeal, the plaintiff, or if he die, and the cause of action survives, his heirs or representatives, may commence a new action within one year after the reversal.

§ 10. **Commencement of Disability.**—SEC. 16. No person shall avail himself of a disability unless it existed when his right of action accrued.

§ 11. **All Disabilities Must be Removed.**—SEC. 17. When two or more disabilities shall co-exist at the time the right of action accrues, the limitation shall not attach until they are all removed.

\* \* \* \* \*

§ 12. **Actions Arising Outside this Territory.**—SEC. 20. When the cause of action has arisen in another state, territory or country between non-residents of this Territory, and by the laws of the state, territory or country where the cause of action arose an action cannot be maintained thereon, by reason of the lapse of time, no action shall be maintained thereon in this Territory.

§ 13. **Scope of this Statute.**—SEC. 21. This act shall not extend to actions already commenced, but the statutes now in force shall be applicable to such cases according to the subject of the action and without regard to form, nor shall any cause of action, barred by the statutes now in force, be revived by the provisions of this act, but causes of action now existing, and not already barred, shall not be barred by reason of any time already elapsed, prior to this act taking effect.

**No. 131.—AN ACT REGULATING THE TIME WITHIN WHICH CIVIL ACTIONS MAY BE COMMENCED.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 23, 1860. (See Seventh Reg. Sess. 1859-60, p. 289). This No. is *verbatim* as No. 130, *supra*.

**No. 132.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT REGULATING THE TIME WITHIN WHICH CIVIL ACTIONS MAY BE COMMENCED."**<sup>1</sup>

§ 1. **Disability.**—SECTION 1. *Be it enacted, etc.*, That section eleven<sup>2</sup> of the act to which this is amendatory be amended by striking out the third clause thereof, to wit, the words "a married woman."

<sup>1</sup> Passed Jan. 31, 1861. (See Eighth Reg. Sess. 1860-61, p. 61).

<sup>2</sup> See No. 131 and No. 130, *supra*, § 5.

**No. 133.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.**<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER II.

\* \* \* \* \*

§ 2. **Periods of Limitation.**—SEC. 16. Actions can only be commenced within the periods herein prescribed, after the cause of action shall have accrued, except when in special cases a different limitation is prescribed by statute; \* \* \*

§ 3. **Within Twenty Years.**—SEC. 17. The period prescribed in the preceding section for the commencement of actions, shall be as follows: Within twenty years—(1) Actions for the recovery of real property, or for the recovery of the possession thereof, and no action shall be maintained for such recovery unless it appear that the plaintiff, his ancestor, predecessor or grantor, was seized or possessed of the premises in question, within twenty years before the commencement of the action. \* \* \*

\* \* \* \* \*

§ 4. **Limitations Apply to Territory.**—SEC. 24. The limitations prescribed in this act shall apply to actions brought in the name of the Territory, or for its benefit, in the same manner as to actions by private parties.

§ 5. **Effect of Absence or Concealment.**—SEC. 25. If when the cause of action shall accrue against any person who shall be out of the Territory, or concealed, such action may be commenced within the terms herein respectively limited after the return of such person into the Territory, or the time of such concealment, and after such cause of action shall have accrued such person shall depart from and reside out of this Territory, or conceal himself, the time of his absence or concealment shall not be deemed or taken as any part of the time limited for the commencement of such action.

§ 6. **Disability: Minor, Insane.**—SEC. 26. If a person entitled to bring an action mentioned in this act, except for a penalty or forfeiture, or against a sheriff or other officer for an escape, be at the time the cause of action accrued either (1) within the age of twenty-one years, (2) insane, the time of such disability shall not be a part of the time limited for the commencement of action.

§ 7. **Death During Disability.**—SEC. 27. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his representatives after the expiration of the time, and within one year from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commence-

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81 and 85.) In effect from date. For repealing clause see No. 118, § 3.

ment thereof, and the cause of action survives, an action may be commenced against his representatives after the expiration of that time, and within one year after the issuing of letters testamentary or of administration.

§ 8. **Alien, etc.**—SEC. 28. When a person shall be an alien subject, or a citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

§ 9. **Injunction—Statutory Prohibition.**—SEC. 29. When the commencement of an action is stayed by injunction or a statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

§ 10. **Effect of Reversal of Judgment.**—SEC. 30. If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on error or appeal, the plaintiff, or if he die and the cause of action survives, his heirs or representatives may commence a new action within one year after the reversal.

§ 11. **Commencement of Disability.**—SEC. 31. No person shall avail himself of a disability unless it existed when his right of action accrued.

§ 12. **All Disabilities Must be Removed.**—SEC. 32. When two or more disabilities shall co-exist at the time the right of action accrues, the limitation shall not attach until they all be removed.

\* \* \* \* \*

§ 13. **Actions Arising Outside This Territory.**—SEC. 35. When the cause of action has arisen in another state, territory or country between non-residents of this Territory, and by the laws of the state, territory or country where the action arose an action cannot be maintained thereon, by reason of the lapse of time, no action shall be maintained thereon in this Territory.

§ 14. **Scope of This Statute.**—SEC. 36. This act shall not extend to actions already commenced, but the statutes now in force shall be applicable to such cases according to the subject of the action and without regard to form, nor shall any cause of action barred by the statutes now in force be revived by the provisions of this act, but upon any cause of action now existing time already elapsed prior to the passage of this act shall be computed as if the same had elapsed under this act.

\* \* \* \* \*

**No. 134.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER II.

§ 2. **Period of Limitations.**—SEC. 25. Actions can only be commenced within the periods herein prescribed after the cause of action shall have accrued, except when in special cases a different limitation is prescribed by statute; \* \* \*

§ 3. **Within Twenty Years.**—SEC. 26. The period prescribed in the preceding section for the commencement of actions shall be as follows: Within twenty years—(1) Actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appear that the plaintiff, his ancestor,

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blen. Sess. 1869, pp. 3 and 8.) For repealing clause see Nos. 119 and 118, § 2.

predecessor or grantor was seized or possessed of the premises in question within twenty years before the commencement of the action. \* \* \*

\* \* \* \* \*

§ 4. **Limitations Apply to Territory.**—SEC. 34. The limitations prescribed in this act shall apply to actions brought in the name of the Territory, or any county or other public corporation therein, or for its benefit, in the same manner as to actions by private parties.

§ 5. **When Action Deemed Commenced.**—SEC. 35. An action shall be deemed commenced as to each defendant when the complaint is served on him, or on a co-defendant who is a joint contractor or otherwise united in interest with him.

§ 6. **Bona Fide Attempt to Commence Action Deemed Sufficient.**—SEC. 36. An attempt to commence an action shall be deemed equivalent to the commencement thereof, within the meaning of this chapter, when the complaint and notice is delivered, with the intent that it shall be actually served, to the sheriff or other officer of the county in which the defendants or one of them usually or last resided; or if a corporation be defendant, to the sheriff or other officer of the county in which such corporation was established by law, or where its general business was transacted, or where it kept an office for the transaction of business; but such an attempt shall be followed by the first publication of the notice of the service thereof within six weeks.

§ 7. **Absence or Concealment.**—SEC. 37. If when the cause of action shall accrue against any person who shall be out of the Territory or concealed therein, such action may be commenced within the terms herein respectively limited after the return of such person into the Territory, or the time of such concealment; and if after such cause of action shall have accrued, such person shall depart from and reside out of this Territory or conceal himself, the time of his absence or concealment shall not be deemed or taken as any part of the time limited for the commencement of such action.

§ 8. **Disability: Minor, Insane, Imprisoned, Under Life Sentence.**—SEC. 38. If a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer for an escape, be at the time the cause of action accrued either within the age of twenty-one years, or insane, or imprisoned on a criminal charge, or in execution under the sentence of a court for a term less than his natural life, the time of such disability shall not be a part of the time limited for the commencement of action.

§ 9. **Death During Disability.**—SEC. 39. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his representatives after the expiration of the time and within one year from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof and the cause of action survives, an action may be commenced against his representatives after the expiration of that time and within one year after the issuing of letters testamentary or of administration.

§ 10. **Aliens, etc.**—SEC. 40. When a person shall be an alien subject, or a citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

§ 11. **Injunction—Statutory Prohibition.**—SEC. 41. When the commencement of an action is stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

§ 12. **Reversal of Judgment.**—SEC. 42. If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on error or appeal, the plaintiff, or if he die and the cause of action survives, his heirs or representatives, may commence a new action within one year after the reversal.

§ 13. **Commencement of Disability.**—SEC. 43. No person shall avail himself of a disability unless it existed when his right of action accrued.

§ 14. **All Disabilities Must be Removed.**—SEC. 44. When two or more disabilities shall co-exist at the time the right of action accrues, the limitation shall not attach until they all be removed.

\* \* \* \* \*

§ 15. **Actions Arising Outside This Territory.**—SEC. 47. When the cause of action has arisen in another state, territory or country, between non-residents of this Territory, and by the laws of the state, territory or country where the action arose an action cannot be maintained thereon, by reason of the lapse of time, no action shall be maintained thereon in this Territory.

\* \* \* \* \*

**No. 135.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*

**CHAPTER II.**

§ 2. **Periods of Limitation.**—SEC. 25. Actions can only be commenced within the periods herein prescribed after the cause of action shall have accrued, except when in special cases a different limitation is prescribed by statute; \* \* \*

§ 3. **Within Twenty Years.**—SEC. 26. The period prescribed in the preceding section for the commencement of actions shall be as follows: Within twenty years—(1) Actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appear that the plaintiff, his ancestor, predecessor or grantor was seized or possessed of the premises in question within twenty years before the commencement of the action. \* \* \*

\* \* \* \* \*

§ 4. **Limitations Apply to Territory.**—SEC. 34. The limitations prescribed in this act shall apply to actions brought in the name of the Territory, or any county or other public corporation therein, or for its benefit, in the same manner as to actions by private parties.

§ 5. **When Action Deemed Commenced.**—SEC. 35. An action shall be deemed commenced as to each defendant when the complaint is filed.

§ 6. **Attempt to Commence Action Deemed Sufficient.**—SEC. 36. An attempt to commence an action shall be deemed equivalent to the commencement thereof, within the meaning of this chapter, when the complaint is filed.

§ 7. **Absence or Concealment.**—SEC. 37. If when the cause of action shall accrue against any person who shall be out of the Territory or concealed therein, such action may be commenced within the terms herein respectively limited after the return of such person into the Territory, or the time of such concealment; and if after such cause of action shall have accrued, such person shall depart from and reside out of this Territory or conceal himself, the time of his absence or concealment shall not be

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Blen. Sess. 1873, pp. 3 and 8.) For repealing clause see No. 121, § 3.



deemed or taken as any part of the time limited for the commencement of such action.

**§ 8. Disability; Minor, Insane, Imprisoned, Under Life Sentence.—**SEC. 38. If a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer for an escape, be at the time the cause of action accrued either within the age of twenty-one years, or insane, or imprisoned on a criminal charge, or in execution under the sentence of a court for a term less than his natural life, the time of such disability shall not be a part of the time limited for the commencement of action.

**§ 9. Death During Disability.—**SEC. 39. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof and the cause of action survive, an action may be commenced by his representatives after the expiration of the time and within one year from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced against his representatives after the expiration of that time and within one year after the issuing of letters testamentary or of administration.

**§ 10. Aliens, etc.—**SEC. 40. When a person shall be an alien subject or a citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

**§ 11. Injunction—Statutory Prohibition.—**SEC. 41. When the commencement of an action is stayed by injunction or a statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

**§ 12. Reversal of Judgment.—**SEC. 42. If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on error or appeal, the plaintiff, or if he die and the cause of action survives, his heirs or representatives may commence a new action within one year after the reversal.

**§ 13. Commencement of Disability.—**SEC. 43. No person shall avail himself of a disability unless it existed when his right of action accrued.

**§ 14. All Disabilities Must be Removed.—**SEC. 44. When two or more disabilities shall co-exist at the time the right of action accrues, the limitation shall not attach until they all be removed.

\* \* \* \* \*

**§ 15. Action Arising Outside This Territory.—**SEC. 47. When the cause of action has arisen in another state, territory or country between non-residents of this Territory, and by the laws of the state, territory or country where the action arose an action cannot be maintained thereon by reason of the lapse of time, no action shall be maintained thereon in this Territory.

\* \* \* \* \*

# **No. 136.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 8, chap. 2.) This No. is *verbatim* as No. 135, *supra*. For date when in effect and repealing clause see No. 122, §§ 3, 4.



**No. 137.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

CHAPTER II.

\* \* \* \* \*

**§ 1. Period of Limitations.—SEC. 25.** Actions can only be commenced within the periods herein prescribed after the cause of action shall have accrued, except when in special cases a different limitation is prescribed by statute; \* \* \*

**§ 2. Within Twenty Years.—SEC. 26.** The period prescribed in the preceding section for the commencement of actions shall be as follows: Within ten years—(1) Actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appear that the plaintiff, his ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action. \* \* \*

\* \* \* \* \*

**§ 3. Limitations Apply to Territory.—SEC. 35.** The limitations prescribed in this act shall apply to actions brought in the name of the Territory, or any county or other public corporation therein, or for its benefit, in the same manner as to actions by private parties. An action shall be deemed commenced when the complaint is filed.

**§ 5. Absence or Concealment.—SEC. 36.** If the cause of action shall accrue against any person who shall be out of the Territory or concealed therein, such action may be commenced within the terms herein respectively limited after the return of such person into the Territory, or after the time of such concealment; and if after such cause of action shall have accrued such person shall depart from and reside out of this Territory or conceal himself, the time of his absence or concealment shall not be deemed or taken as any part of the time limited for the commencement of such action.

**§ 6. Disability; Minors, Insane, Imprisoned, Under Life Sentence.—SEC. 37.** If a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer for an escape, be at the time the cause of action accrued either under the age of twenty-one years, or insane, or imprisoned on a criminal charge, or in execution under the sentence of a court for a term less than his natural life, the time of such disability shall not be a part of the time limited for the commencement of action.

**§ 7. Death During Disability.—SEC. 38.** If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced by his representatives after the expiration of the time and within one year from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced against his representatives after the expiration of that time and within one year after the issuing of letters testamentary or of administration.

**§ 8. Aliens, etc.—SEC. 39.** When a person shall be an alien subject or a citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

**§ 9. Injunction—Statutory Prohibition.—SEC. 40.** When the commencement of an action is stayed by injunction or statutory prohibition.

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<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35 and 39.) For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

§ 10. **Reversal of Judgment.**—SEC. 41. If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on error or appeal, the plaintiff, or if he die and the cause of action survives, his heirs or representatives may commence a new action within one year after the reversal.

§ 11. **Commencement of Disability.**—SEC. 42. No person shall avail himself of a disability unless it existed when his right of action accrued.

§ 12. **All Disabilities Must be Removed.**—SEC. 43. When two or more disabilities shall co-exist at the time the right of action accrues, the limitation shall not attach until they all be removed.

\* \* \* \* \*

§ 13. **Action Arising Outside Territory.**—SEC. 46. When the cause of action has arisen in another state, territory or country between non-residents of this Territory, and by the laws of the state, territory or country where the action arose an action cannot be maintained thereon by reason of the lapse of time, no action shall be maintained thereon in this Territory.

\* \* \* \* \*

#### CHAPTER IV.—VENUE OF ACTIONS.

##### No. 138.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

##### CHAPTER II.

§ 2. **Venue of Actions.**—SEC. 13. Actions for the following causes shall be commenced in the county in which the subject of the action, or some part thereof, is situated: (1) For the recovery of, for the possession of, for the partition of, for the foreclosure of a mortgage on, or for the determination of all questions affecting the title, or for any injuries to real property. \* \* \*

\* \* \* \* \*

§ 3. **Change of Venue.**—SEC. 15. \* \* \* Nothing contained in any of the foregoing sections shall be so construed as to prevent a change in the place of trial as may be provided by law.

\* \* \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129 and 133, chap. 3.) For repealing clause see No. 115, §2.

##### No. 139.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

##### CHAPTER II.

§ 2. **Venue of Actions.**—SEC. 15. Actions for the following causes shall be commenced in the county<sup>2</sup> in which the subject of the action, or

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859–60, pp. 3, 7 and 99, chap. 2.) For repealing clause see No. 117, §2

<sup>2</sup> See No. 140, *infra*.

some part thereof, is situated: (1) For the recovery of, for the possession of, for the partition of, for the foreclosure of a mortgage on, or for the determination of all questions affecting the title, or for any injuries to real property. \* \* \*

\* \* \* \* \*

§ 3. **Change of Venue.**—SEC. 17. \* \* \* Nothing contained in any of the foregoing sections shall be so construed as to prevent a change in the place of trial to the adjoining county or district, \* \* \*

\* \* \* \* \*

CHAPTER LXIX.

\* \* \* \* \*

§ 4. **Actions Against Corporations.**—SEC. 488. Any action against a corporation may be brought in any county where the corporation has an office for the transaction of business, or any person resides upon whom process may be served against such corporation, unless otherwise provided in this act.

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**No. 140.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.**

\* \* \* \* \*

<sup>1</sup>Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 89 and 193, chap. 3, secs. 37-39, and chap. 52, sec. 535.) This No. is *verbatim* as No. 139, *infra*, except § 2 of said No. at the words "or districts" are inserted. In effect from date. For repealing clause see No. 118, § 3.

**No. 141.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Venue of Actions.**—SEC. 48. Actions for the following causes shall be commenced in the county or district in which the subject of the action, or some part thereof, is situated: (1) For the recovery of, for the possession of, for the partition of, for the foreclosure of a mortgage on, or for the determination of all questions affecting the title, or for any injuries to real property. \* \* \*

\* \* \* \* \*

§ 3. **Actions Against Corporations.**—SEC. 50. An action against a corporation may be brought in any county where the corporation has an office for the transaction of business, or any person resides upon whom process may be served against such corporation, unless otherwise provided in this act.

§ 4. **Other Cases.**—SEC. 51. In all other cases the action shall be commenced and tried in the district embracing the county in which the defendants or either of them reside, or may be served with process; or if none of the parties reside in this Territory, the same may be tried in any district or county which the plaintiff may designate in his complaint.

\* \* \* \* \*

<sup>1</sup>Approved Dec. 2, 1869. (See Second Blen. Sess. 1869, pp. 3, 12.) For repealing clause see Nos. 119 and 118, § 3.

**No. 142.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Blen. Sess. 1873, pp. 3, 12, chap. 3, secs. 48, 50, 51.) This No. is *verbatim* as No. 141, *supra*. For repealing clause see No. 121, § 3.

**No. 143.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER III.

§ 2. **Venue—Certain Actions.**—SEC. 48. Actions for the following causes shall be commenced in the county or district in which the subject of the action, or some part thereof, is situated: (1) For the recovery of, for the possession of, for the partition of, for a foreclosure of a mortgage on, or for the determination of all questions affecting the title, or for any injuries to real property. \* \* \*

\* \* \* \* \*

§ 3. **Actions Against Corporations.**—SEC. 50. An action against a corporation may be brought in any county where the corporation has an office for the transaction of business, or any person resides upon whom process may be served against such corporation, unless otherwise provided in this act.

§ 4. **Other Cases.**—SEC. 51. In all other cases the action must be tried in the county in which the defendants, or some of them, reside at the commencement of the action, or may be served with process; or, if none of the defendants reside in this Territory, or if residing in the Territory the county in which they reside is unknown to the plaintiff, the same may be tried in any county which the plaintiff may designate in his complaint; and if the defendant is about to depart from the Territory, such action may be tried in any county where either of the parties resides, or service is had, subject, however, to the power of the court to change the place of trial as provided in this act. If the county in which the action is commenced is not the proper county for the trial thereof, the action may, notwithstanding, be tried therein, unless the defendant, at the time he appears and answers or demurs, files an affidavit of merits, and demands in writing that the trial be had in the proper county.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3 and 11.) For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 144.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER III.

§ 2. **Venue—Certain Actions.**—SEC. 47. Actions for the following causes shall be commenced in the county or district in which the subject of the action, or some part thereof, is situated: (1) For the recovery of, for the possession of, for the partition of, for the foreclosure of a mortgage on, or for the determination of all questions affecting the title, or for any injuries to real property. \* \* \*

\* \* \* \* \*

§ 3. **Actions Against Corporations.**—SEC. 49. An action against a corporation may be brought in any county where the corporation has an office for the transaction of business, or any person resides upon whom process may be served against such corporation, unless otherwise provided in this code.

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35 and 41.) For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

§ 4. **Other Cases.**—SEC. 50. In all other cases the action must be tried in the county in which the defendants, or some of them, reside at the time of the commencement of the action, or may be served with process, subject, however, to the power of the court to change the place of trial, as provided in this act. If the county in which the action is commenced is not the proper county for the trial thereof, the action may, notwithstanding, be tried therein, unless the defendant, at the time he appears and demurs or answers, files an affidavit of merits and demands that the trial be had in the proper county.

\* \* \* \* \*

## CHAPTER V.—COMMENCEMENT OF ACTIONS.

### No. 145.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

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#### CHAPTER IV.

§ 2. **Issuance of Summons.**—SEC. 23. Civil actions, in the several district courts of this Territory, shall be commenced by the filing the complaint with the clerk of the court and the issuing of a summons thereon, except as hereinafter provided.

§ 3. **To Whom Summons Shall Issue.**—SEC. 24. The clerk shall file the complaint in his office, endorsing thereon the day, month and year when it is filed, and shall forthwith issue, under the seal of the court, summons against all the defendants named in the complaint: *Provided*, That if the defendants reside in several counties, a summons shall issue to each county in which any of the defendants reside or may be found.

§ 4. **When Returnable.**—SEC. 25. The summons shall be made returnable on the first day of the next term of the court, which shall commence twenty days or more after it is issued.

§ 5. **What Summons Shall State.**—SEC. 26. The summons shall require the defendant, if served within the county, to appear and file his answer with the clerk within fifteen days after he is served with process, and if served in any other county, within twenty days after such service, or that judgment by default will be taken against him: *Provided*, That where, for good and sufficient cause, the defendant has been unable to file his answer within the time above specified, the court, in its discretion, may allow the answer to be filed at any subsequent time.

§ 6. **Personal Service: Manner of.**—SEC. 27. In all cases, except where the service is made by publication as is hereinafter provided for, the summons shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person other than the plaintiff, specially appointed by him, or by a person appointed by the judge of the court where the action is brought. Such appointment shall, prior to the service, be made in writing, endorsed upon the summons and signed by the party making them. The summons shall be returned to the office of the clerk from which it issued, with the return of the sheriff or his deputy endorsed thereon, or if served by a person specially appointed, his affidavit. And when issued to or served in a county other than that in which the action is pending, it may be sent and returned by mail.

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 135, 218.) For repealing clause see No. 115, § 2.

§ 7. **Personal Service: Manner of.**—SEC. 28. The summons shall be served by delivering a copy thereof, together with a copy of the complaint, certified by the clerk, as follows: (1) If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier, or managing agent thereof. (2) If against any county in this Territory, to the county auditor. (3) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, or guardian; or if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (4) If against a person for whom a guardian has been appointed for any cause, to such guardian and to the defendant personally. (5) In all other cases to the defendant personally, or if he be not found, to some suitable person of the family, above the age of fourteen years, at the dwelling house or usual place of abode of the defendant.

§ 8. **Service by Publication—When Allowable.**—SEC. 29. When service of the summons cannot be made as prescribed in the last preceding section, and the defendant after due diligence, cannot be found within the Territory, and when that fact appears by affidavit to the satisfaction of the court, or judge thereof, and it in like manner appears that a cause of action exists against the defendant where actual personal notice is not required by law, or that he is a proper party to an action relating to real property in such Territory, such court or judge may grant an order that the service be made by publication.

§ 9. **Service by Publication: Manner of.**—SEC. 30. The order shall direct the publication to be made in a newspaper published in the county where the action is brought, and if there be no newspaper published in the county, then in a newspaper or newspapers to be designated as most likely to give notice to the person to be served, and for such length of time as may be deemed reasonable, not less than once a week for six weeks; or in case the defendant be absent from, or residing out of this Territory, not less than once a week for three months. In case of publication the court or judge shall also direct a copy of the summons and complaint to be forthwith deposited in the postoffice, directed to the defendant at his place of residence, unless it shall appear that such residence is not known to and cannot be ascertained with reasonable diligence by the party making the application. When publication is ordered, personal service of a copy of the summons and complaint, out of the Territory, shall be equivalent to publication and deposit in the postoffice. In either case the service of the summons shall be deemed complete at the expiration of the time prescribed in the order for publication.

§ 10. **When and How Defendant May Appear.**—SEC. 31. The defendant, against whom publication is ordered, or his representatives, on application and sufficient cause shown at any time before judgment, shall be allowed to defend the action; and, except in an action for divorce, the defendant against whom publication is ordered, or his representatives, may in like manner upon good cause shown be allowed to defend after judgment, and within one year after the rendition of such judgment, on such terms as may be just, and if the defense be successful, and the judgment, or any part thereof, have been collected or otherwise enforced, such restitution may thereupon be compelled as the court shall direct. \* \* \*

§ 11. **Alias Summons: When Issuable.**—SEC. 32. Whenever it shall appear by the return of the sheriff, or his deputy, or the person appointed to serve a summons, that he has not served it upon the defendants as prescribed in the twenty-eighth section, the clerk shall, at the request of the plaintiffs, issue another summons, and so on till service be had; or the plaintiff may proceed by publication in the manner before stated, at his election.

§ 12. **Service on Certain Joint Defendants.**—SEC. 33. When the action is against two or more defendants upon a joint contract or liability,



and one or more cannot be served with summons, the plaintiff, unless for good cause the court shall otherwise direct, may proceed to judgment against the defendant served, and at any time thereafter while such judgment remains unsatisfied the clerk, on written application of the party interested, or his attorney, shall issue a summons against the defendant not served, and upon the service thereof with a copy of the complaint upon such defendant the same proceedings shall be had as though he had been originally served with the summons. Where the action is against the defendants severally and jointly, or severally liable, he may proceed against the defendants served in the same manner as though they were the only defendants.

§ 13. **Proof of Service.**—SEC. 34. Proof of the service of the summons and complaint shall be as follows: (1) If served by the sheriff or his deputy, the return of such sheriff or deputy; or, (2) if by any other person, his affidavit thereof; or, (3) in case of publication, the affidavit of the printer, or his foreman or principal clerk, showing the same; and an affidavit of a deposit of a copy of the summons and complaint in the post-office if the same shall have been deposited; or, (4) the written admission of the defendant. In case of service otherwise than by publication, the certificate, affidavit or admission must state the time, place and manner of service.

§ 14. **Jurisdiction of Court: When Acquired.**—SEC. 35. From the time of the service of the summons and complaint in a civil action, the court shall be deemed to have acquired jurisdiction, and to have control of all the subsequent proceedings. A voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.

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CHAPTER LIII.

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§ 15. **Service on New Parties.**—SEC. 485. When a new party is introduced into an action as a representative or successor of a former party, such new party is entitled to the same notice to be given in the same manner as required for defendants in the commencement of an action.

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**No. 146.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTION."**<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.*

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§ 2. **Summons Abolished—Notice.**—SEC. 4. Writs of summons are abolished, and civil actions shall be commenced by the service upon the defendant of a copy of a complaint and a notice, which notice shall be signed by the plaintiff or his attorney, and the copies shall be certified to be correct by the officer or person making the service. The notice shall be substantially as follows:

**TERRITORY OF WASHINGTON, COUNTY OF ———:**

To ———: You are hereby notified that unless you appear in the district court of the ——— judicial district on the first day of the next term thereof, which shall commence twenty days or more after the service of this complaint, the same will be taken as confessed, and the prayer thereof granted. Dated ———, 18—.

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§ 3. **"Summons" Defined.**—SEC. 6. Whenever the word summons is used in the act to which this is an amendment, under the title of "The manner of commencing civil actions,"<sup>2</sup> it may be construed to mean notice.

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-57, p. 7.)

<sup>2</sup> See §§ 2 to 14 inclusive, No. 145, *supra*.



**§ 4. Service by Publication of Notice: Manner of—Proof of.—**  
**SEC. 7.** In case personal service cannot be had by reason of the absence of the defendant, and the defendant is a proper party to an action where personal notice is not required by law, or is a proper party to an action relating to real estate in the district, it shall be proper to publish the notice with a brief statement of the object and prayer of the petition or complaint in some weekly newspaper published in this Territory or in Portland, Oregon Territory, which notice shall be published not less than once a week for three months prior to the commencement of the term of the court where such cause shall be heard. Said notice may be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF ———.

*In the District Court of the ——— Judicial District.*

To ———: You are hereby notified that ——— has filed a complaint against you in said court which will come on to be heard at the first term of the court which shall commence more than three months after the [here insert the date of the first publication], and unless you appear at said term and answer, the same will be taken as confessed, and the prayer thereof granted. The object and prayer of said complaint is [here insert a brief statement].

[Signature of plaintiff or his attorney.]

[Date of filing complaint.]

Before publication is made, the complaint shall be filed with the clerk of the court where the action is to be tried, and forthwith, upon publication, the party shall cause a copy of the notice and complaint, certified by the clerk, to be deposited in the postoffice, directed to the defendant at his place of residence, unless it shall appear that such residence is not known to or cannot with reasonable diligence be ascertained by the party, and before hearing the case the court shall be satisfied, by affidavit or other proof, that all the provisions herein contained have been complied with; and a printed copy of the notice published, with the affidavit of the printer or publisher of the newspaper that it has been published the requisite length of time, and, as is herein provided, shall be placed on file: *Provided*, That personal service out of the district or Territory shall be equivalent to publication. In either case service shall be complete at the expiration of the period prescribed for publication. Nothing in this section contained shall be construed as enlarging the venue in civil actions beyond the bounds now provided by law.

**§ 5. How Certain Words Construed.—SEC. 8.** The words “against whom publication is ordered,” whenever they occur in the act to which this is an amendment, may be construed to mean “against whom publication is made.”

**§ 6. Jurisdiction of Court: When Acquired.—SEC. 9.** The court shall be deemed to have obtained possession of the case from the time the complaint is filed with the clerk: *Provided*, That no complaint against a defendant who may be served within the district shall be filed until service has been made on one or more of the defendants so liable.

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#### **No. 147.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

**§ 1. SECTION 1.** *Be it enacted, etc.*

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#### **CHAPTER III.**

**§ 2. Summons Abolished—Notice.—SEC. 18.** Writs of summons are abolished, and civil actions in the several district courts of this Territory shall be commenced by the service upon the defendant of a copy of a

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 8, and 99.) For repealing clause see No. 117, § 2.

complaint, and a notice; which notice shall be signed by the plaintiff, or his attorney, and the copies which shall be certified to be correct by the officer or person making the service. The notice shall be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF ———.

To ———: You are hereby notified that unless you appear in the district court of the ——— judicial district, on the first day of the next term thereof, which shall commence twenty days or more after the service of this complaint, the same will be taken as confessed, and the prayer thereof granted.

Dated, ———, 18—.

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§ 3. **Personal Service: Who Shall Make.**—SEC. 20. In all cases, except where the service is made by publication, as is hereinafter provided for, the notice shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person other than the plaintiff, specially appointed by the judge of the court where the action is brought. Such appointments shall, prior to the service, be made in writing, endorsed upon the notice, and signed by the party making them. The notice shall be returned to the office of the district clerk, with the return of the sheriff, or his deputy, endorsed thereon; or if served by a person specially appointed, his affidavit.

§ 4. **Personal Service: Manner of.**—SEC. 21. The notice shall be served by delivering a copy thereof, together with a certified copy of the complaint, as follows: (1) If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier or managing agent thereof. (2) If against any county in this Territory, to the county auditor. (3) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother or guardian; or, if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (4) If against a person for whom a guardian has been appointed for any cause, to such guardian, and to the defendant personally. (5) In all other cases, to the defendant personally, or, if he be not found, to some suitable person of the family above the age of fourteen years, at the dwelling house or usual place of abode of the defendant.

§ 5. **Service by Publication: When Allowable—Manner of—Proof of.**—SEC. 22. In case personal service cannot be had by reason of the absence of the defendant, and the defendant is a proper party to an action where actual personal notice is not required by law, or is a proper party to an action relating to real estate in the district, it shall be proper to publish the notice, with a brief statement of the object and prayer of the petition or complaint, in some weekly newspaper published in this Territory or in Portland, Oregon; which notice shall be published not less than once a week for three months prior to the commencement of the term of the court when such cause shall be heard. Said notice may be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF ———:

*In the District Court of the ——— Judicial District.*

To ———: You are hereby notified that ——— has filed a complaint against you in said court, which will come on to be heard at the first term of the court, which shall commence more than three months after the [here insert the date of the first publication], and unless you appear at said term and answer, the same will be taken as confessed and the prayer thereof granted. The object and prayer of said complaint is [here insert a brief statement]. [Signature of plaintiff or his attorney.]

[Date of filing complaint.]

Before publication is made, the complaint shall be filed with the clerk of the court where the action is to be tried, and forthwith upon publication the party shall cause a copy of the notice and complaint, certified by the clerk, to be deposited in the postoffice, directed to the defendant at his place of residence, unless it shall appear that such residence is not known to or cannot with reasonable diligence be ascertained by the

party; and before hearing the case the court shall be satisfied by affidavit or other proof, that all the provisions herein contained have been complied with; and a printed copy of the notice published, with the affidavit of the printer or publisher of the newspaper that it has been published the requisite length of time, and as is herein provided, shall be placed upon file: *Provided*, That personal service out of the district or Territory shall be equivalent to publication. In either case, service shall be complete at the expiration of the period prescribed for publication. Nothing in this section contained shall be construed as enlarging the venue in civil actions beyond the bounds now provided by law.

**§ 6. When and How Defendant May Appear.**—SEC. 23. The defendant against whom publication is made, or his representatives, on application and sufficient cause shown at any time before judgment, shall be allowed to defend the action; and, except in an action for divorce, the defendant against whom publication is made, or his representatives, may in like manner, upon good cause shown, be allowed to defend after judgment, and within one year after the rendition of such judgment on such terms as may be just; and if the defense be successful and the judgment or any part thereof have been collected or otherwise enforced, such restitution may thereupon be compelled as the court shall direct: *Provided*, That in all cases before the defendant shall be allowed to defend, he shall make an affidavit that he has, as he believes, a good defense to the action, or to some part thereof.

**§ 7. Alias Notice: When Issuable.**—SEC. 24. Whenever it shall appear by the return of the sheriff or his deputy, or the person appointed to serve a notice, that he has not served it upon the defendants as prescribed, the plaintiffs may issue another notice, and so on till service be had; or, the plaintiff may proceed by publication in the manner before stated, at his election.

**§ 8. Service on Certain Joint Defendants.**—SEC. 25. When the action is against two or more defendants, upon a joint contract or liability, and one or more cannot be served with notice, the plaintiff may proceed to judgment against the defendant served; and at any time thereafter, while such judgment remains unsatisfied, the plaintiff, or his attorney, may issue a notice to the defendant not served, and upon the service thereof with a copy of the complaint upon such defendant, the same proceedings shall be had as though he had been originally served. When the action is against the defendants severally and jointly, or severally liable, he may proceed against the defendants served in the same manner as though they were the only defendants.

**§ 9. Proof of Service.**—SEC. 26. Proof of the service of the notice and complaint shall be as follows: (1) If served by the sheriff, or his deputy, the return of such sheriff or deputy; or (2) if by any other person, his affidavit thereof; or (3) in case of publication, the affidavit of the printer, or his foreman or principal clerk, showing the same, and an affidavit of a deposit of a copy of the notice and complaint in the postoffice, if the same shall have been deposited; or (4) the written admission of the defendant. In case of service otherwise than by publication, the certificate, affidavit, or admission, must state the time, place and manner of service.

**§ 10. Jurisdiction of Court: When Acquired.**—SEC. 27. The court shall be deemed to have obtained possession of the case from the time the complaint is filed with the clerk, and shall have control of all subsequent proceedings. A voluntary appearance of the defendant shall be equivalent to personal service.

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#### CHAPTER LXIX.

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**§ 11. Service on New Parties.**—SEC. 477. When a new party is introduced into an action, as a representative or successor of a former party,

such new party is entitled to the same notice, to be given in the same manner, as required for defendants in the commencement of an action.

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**No. 148.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS OF CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

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CHAPTER IV.

§ 2. **Notice: Substance of.**—SEC. 40. Civil actions in the several district courts of this Territory shall be commenced by the service upon the defendant of a copy of the complaint, and a notice; which notice shall be signed by the plaintiff or his attorney, and the copies shall be certified to be correct by the officer or person making the service. The notice shall be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF ———, ss.

To ———: You are hereby notified that unless you appear in the district court of the ——— judicial district on the first day of the next term thereof, which shall commence twenty days or more after the service of this complaint, the same will be taken as confessed and the prayer thereof granted.

Dated ———, 18—.

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§ 3. **Personal Service: Who Shall Make.**—SEC. 42. In all cases, except where the service is made by publication as is hereinafter provided for, the notice shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person other than the plaintiff specially appointed by the judge or clerk of the court where the action is brought. Such appointments shall, prior to the service, be made in writing, indorsed upon the notice, and signed by the party making them. The notice shall be returned to the office of district clerk with the return of the sheriff, or his deputy, indorsed thereon; or, if served by a person specially appointed, his affidavit.

§ 4. **Personal Service: Manner of.**—SEC. 43. The notice shall be served by delivering a copy thereof, together with a certified copy of the complaint, as follows: (1) If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier or managing agent thereof. (2) If against any county in this Territory, to the county auditor. (3) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother or guardian; or, if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (4) If against a person for whom a guardian has been appointed for any cause, to such guardian and to the defendant personally. (5) In all other cases to the defendant personally, or, if he be not found, to some suitable person at the dwelling house or usual place of business of the defendant.

§ 5. **Service by Publication: When Allowable—Manner of—Proof of.**—SEC. 44. In case personal service cannot be had by reason of the absence of the defendant, and the defendant is a proper party to an action where actual personal notice is not required by law, or is a proper party to an action relating to real estate in the district, it shall be proper to publish the notice, with a brief statement of the object and prayer of the petition or complaint, in some weekly newspaper published in this Territory, which notice shall be published not less than once a week for two

<sup>1</sup>Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 90, 193.) For repealing clause see No. 118, § 3.

months prior to the commencement of the term of the court when such cause shall be heard. Said notice may be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF ———, ss.:

*In the District Court of the ——— Judicial District.*

To ———: You are hereby notified that ——— has filed a complaint against you in said court, which will come on to be heard at the first term of the court, which shall commence more than two months after the [here insert the date of the publication], and unless you appear at said term and answer, the same will be taken as confessed and the prayer thereof granted. The object and prayer of said complaint is [here insert a brief statement].

[Date of filing complaint.]

[Signature of plaintiff or his attorney.]

Before publication is made the complaint shall be filed with the clerk of the court where the action is to be tried, and forthwith upon publication the party shall cause a copy of the notice and complaint, certified by the clerk, to be deposited in the postoffice, directed to the defendant at his place of residence, unless it shall appear that such residence is not known to or cannot with reasonable diligence be ascertained by the party; and before hearing the case the court shall be satisfied, by affidavit or other proof, that all the provisions herein contained have been complied with; and a printed copy of the notice published, with the affidavit of the printer or publisher of the newspaper that it has been published the requisite length of time, and as is herein provided, shall be placed upon file: *Provided*, That personal service out of the district or Territory shall be equivalent to personal service within the district or Territory at the expiration of two months from the time service is made.

**§ 6. Alias Notice: When Issuable.**—SEC. 45. Whenever it shall appear by the return of the sheriff or his deputy, or the person appointed to serve a notice, that he has not served it upon the defendants as prescribed, the plaintiffs may issue another notice, and so on till the service be had; or the plaintiff may proceed by publication in the manner before stated, at his election.

**§ 7. Service on Certain Joint Defendants.**—SEC. 46. When the action is against two or more defendants upon a joint contract or liability, and one or more cannot be served with notice, the plaintiff may proceed to judgment against the defendant served; and at any time thereafter while such judgment remains unsatisfied, the plaintiff or his attorney may issue a notice to the defendant not served, and upon the service thereof with a copy of the complaint upon such defendant, the same proceedings shall be had as though he had been originally served. When the action is against the defendants severally and jointly, or severally liable, he may proceed against the defendants served in the same manner as though they were the only defendants.

**§ 8. Proof of Service.**—SEC. 47. Proof of the service of notice of the complaint shall be as follows: (1) If served by the sheriff or his deputy, the return of such sheriff or deputy; or, (2) if by any other person, his affidavit thereof; or, (3) in case of publication, the affidavit of the printer or his foreman or principal clerk, showing the same, and an affidavit of a deposit of a copy of the notice and complaint in the postoffice, if the same shall have been deposited; or, (4) the written admission of the defendant. (5) In case of personal service out of the district or Territory, the return of the sheriff of the county in the State or Territory in which the defendant was served, or the affidavit of the person appointed to make the service. In case of service otherwise than by publication the certificate, affidavit or admission must state the time, place and manner of service.

**§ 9. Jurisdiction of Court: When Acquired.**—SEC. 48. The court shall be deemed to have obtained possession of the case from the time the complaint is filed with the clerk after completion of the service, whether by publication or otherwise, and shall have control of all subsequent proceedings.



§ 10. **Effect of Voluntary Appearance.**—SEC. 49. A voluntary appearance of the defendant shall be equivalent to personal service, but no motion which may properly be made before demurrer or answer filed shall be deemed a voluntary appearance.

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CHAPTER LII.

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§ 11. **Service on New Parties.**—SEC. 524. When a new party is introduced into an action as a representative or successor of a former party, such new party is entitled to the same notice, to be given in the same manner, as required for defendants in the commencement of an action.

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**No. 149.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

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CHAPTER IV.

§ 2. **Notice: Substance of.**—SEC. 59. Civil actions in the several district courts of this Territory shall be commenced by the service upon the defendant of a copy of the complaint and a notice, which notice shall be signed by the plaintiff or his attorney, and the copies shall be certified to be correct by the officer or person making the service. The notice shall be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF ———:

To ———: You are hereby notified that unless you appear in the district court of the ——— judicial district on the first day of the next term thereof, which shall commence twenty days or more after the service of this complaint, the same will be taken as confessed and the prayer thereof granted.

Dated ———, 18—.

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§ 3. **Personal Service: Who Shall Make.**—SEC. 61. In all cases, except where the service is made by publication as is hereinafter provided for, the notice shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person other than the plaintiff specially appointed by the judge or clerk of the court where the action is brought. Such appointments shall, prior to the service, be made in writing, endorsed upon the notice and signed by the party making them. The notice shall be returned to the office of the district clerk, with the return of the sheriff or his deputy endorsed thereon, or if served by a person specially appointed, his affidavit.

§ 4. **Personal Service: How Made.**—SEC. 62. The notice shall be served by delivering a copy thereof, together with a certified copy of the complaint, as follows: (1) If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier or managing agent thereof. (2) If against any county in this Territory, to the county auditor. (3) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother or guardian; or if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (4) If against a person for whom a guardian has been appointed for any cause, to such guardian, and to the defendant personally. (5) In all other cases to the defendant personally, or if he be not found, to some

<sup>1</sup>Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 15, 172.) For repealing clause see Nos. 119 and 118, § 3.

suitable person at the dwelling house or usual place of abode of the defendant.

**§ 5. Service by Publication: When Allowable.**—SEC. 63. When service of notice cannot be made as prescribed in the last preceding section, and the defendant after due diligence cannot be found within the Territory, and when that fact appears by affidavit, and it in like manner appears that a cause of action exists against the defendant, or that he is a proper party to an action relating to real property in this Territory, service may be made by publication in either of the following cases: (1) When the defendant is a foreign corporation and has property within the Territory, or the cause of action arose therein. (2) When the defendant, being a resident of this Territory, has departed therefrom with intent to defraud his creditors or to avoid the service of process, or shall keep himself concealed therein with the like intent, or has departed from the Territory and remained absent therefrom for the period of six months. (3) When the defendant is not a resident of the Territory but has property therein, and the court has jurisdiction of the subject of the action.

**§ 6. Service by Publication: Manner of.**—SEC. 64. Publication may be made in a newspaper published in the same county where the action is commenced, and if there be no newspaper published in the same, then in a newspaper most likely to give notice to the person to be served, and for not less than once a week for six successive weeks. In case of publication, a copy of the notice and complaint shall be forthwith deposited in the postoffice and directed to the defendant at his place of residence, unless it shall appear that such residence is neither known to the party making the application nor can with reasonable diligence be ascertained by him. When publication is made, personal service of a copy of the notice and complaint out of the Territory shall be equivalent to publication and deposit in the postoffice. In either case the defendant shall appear and answer by the first day of the term following the expiration of the time prescribed in the notice of publication, and if he does not judgment may be taken against him for want thereof.

**§ 7. When and How Defendant May Appear.**—SEC. 65. The defendant against whom publication is made, or his personal representatives, on application and sufficient cause shown at any time before judgment, shall be allowed to defend the action; and the defendant against whom publication is made, or his representatives, may in like manner upon good cause shown, and upon such terms as may be proper, be allowed to defend after judgment and within one year after the entry of such judgment on such terms as may be just; and if the defense be successful, and the judgment or any part thereof have been collected or otherwise enforced, such restitution may thereupon be compelled as the court shall direct. But the title to property sold upon execution issued on such judgment to a purchaser in good faith shall not be thereby affected.

**§ 8. Alias Notice: Substance of—Manner of Service.**—SEC. 66. Whenever it shall appear by the return of the sheriff, his deputy or other person appointed to serve the notice that the defendant is not found, the plaintiff may deliver another notice to be served, and so on until service be had; or the plaintiff may proceed by publication as in this act provided, at his election. Said notice may be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF ———:

*In the District Court of the ——— Judicial District.*

To ———: You are hereby notified that ——— has filed a complaint against you in said court, which will come on to be heard at the first term of the court, which shall commence more than six weeks after the [here insert the date of the publication], and unless you appear at said term and answer, the same will be taken as confessed and the prayer thereof granted. The object and prayer of said complaint is [here insert a brief statement].

[Date of filing complaint.]

[Signature of plaintiff or his attorney.]



§ 9. **Service on Certain Joint Defendants.**—SEC. 67. When the action is against two or more defendants upon a joint contract or liability and one or more cannot be served with notice, the plaintiff may proceed to judgment against the defendant served, and at any time thereafter while such judgment remains unsatisfied, the plaintiff or his attorney may issue a notice to the defendant not served, and upon the service thereof, with a copy of the complaint, upon such defendant, the same proceedings shall be had as though he had been originally served. When the action is against the defendants severally and jointly, or severally liable, he may proceed against the defendants served, in the same manner as though they were the only defendants.

§ 10. **Proof of Service.**—SEC. 68. Proof of the service of the notice of the complaint shall be as follows: (1) if served by the sheriff or his deputy, the return of such sheriff or deputy; or (2) if by any other person, his affidavit thereof; or (3) in case of publication, the affidavit of the printer, or his foreman or principal clerk, showing the same, and an affidavit of a deposit of a copy of the notice and complaint in the postoffice, if the same shall have been deposited; or (4) the written admission of the defendant. (5) In case of personal service out of the district or Territory, the return of the sheriff of the county in the State or Territory in which the defendant was served or the affidavit of the person appointed to make the service. In case of service otherwise than by publication, the affidavit or admission must state the time, place and manner of service.

§ 11. **Jurisdiction of Court: When Acquired.**—SEC. 69. The court shall be deemed to have obtained possession of the case from the time the complaint is filed with the clerk, after completion of the service, whether by publication or otherwise, and shall have control of all subsequent proceedings.

§ 12. **Effect of Voluntary Appearance.**—SEC. 70. A voluntary appearance of the defendant shall be equivalent to personal service, but no motion which may properly be made before demurrer or answer filed, shall be deemed a voluntary appearance.

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CHAPTER LXII.

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§ 13. **Service on New Parties.**—SEC. 684. When a new party is introduced into an action, as a representative or successor of a former party, such new party is entitled to the same notice, to be given in the same manner, as required for defendants in the commencement of an action.

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**No. 150.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS," APPROVED DEC. 2, 1869.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. SEC. 2. (3) Sections 59, 60, 61, 62, 63, 64, 66, 67, 68, 69, 70, 71, \* \* \* of the said act are hereby amended so as to read as follows, viz.:

§ 3. **Summons: Issuance of.**—SEC. 59. Actions at law in the several district courts of this Territory shall be commenced by the filing of a complaint with the clerk of the court in which the action is brought, and the issuing of a summons thereon: *Provided*, That after the filing of the com-

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 3.) For repealing clause see No. 120, § 3.

plaint, a defendant in the action may appear, answer or demur whether the summons has been issued or not, and such appearance, answer or demurrer shall be deemed a waiver of summons."

**§ 4. What Summons Shall State.**—"SEC. 60. The clerk shall indorse on the complaint, the day, month and year the same is filed, and at any time within one year after the filing of the same, the plaintiff may have a summons issued. The summons shall run in the name of the United States of America, be signed by the clerk, tested in the name of the judge of the court from which it issues, be directed to the defendant, and be issued under the seal of the court. The summons shall state the parties to the action, the court in which it is brought, the county in which the complaint is filed, the cause and general nature of the action, and require the defendant to appear and answer the complaint within the time mentioned in this section, after the service of the summons, exclusive of the day of service, or that judgment by default will be taken against him according to the prayer of the complaint, briefly stating the sum of money or other relief demanded in the complaint, and the clerk shall also indorse on the summons the names of the plaintiff's attorneys. The time in which the summons shall require the defendant to answer the complaint shall be as follows: (1) If the defendant is served within the county in which the action is brought, twenty days; (2) if the defendant is served out of the county but in the district in which the action is brought, thirty days; (3) in all other cases, sixty days. There shall also be inserted in the summons a notice in substance as follows: (1) In an action arising on contract for the recovery only of money or damages, that the plaintiff will take judgment for a sum specified therein, if the defendant fail to answer the complaint. (2) In other actions, that if the defendant fail to answer the complaint, the plaintiff will apply to the court for the relief demanded therein.<sup>2</sup> \* \* \*

**§ 5. Personal Service: Who Shall Make—Alias Summons.**—"SEC. 61. The summons shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person specially appointed by him or appointed by a judge of the court in which the action is brought, or by any citizen of the United States over twenty-one years of age, other than the plaintiff, and who is competent to be a witness on the trial of the action. A copy of this complaint shall be served with the summons. When the summons is served by the sheriff or his deputy, it shall be returned with the certificate or affidavit of the officer of its service, and of the service of the copy of the complaint, to the office of the clerk from which the summons issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the clerk from which it issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the clerk from which it issued, with the affidavit of such person of its service, and of the service of the copy of the complaint. The plaintiff shall be entitled to as many writs of summons in the same suit as may be necessary to obtain jurisdiction of the person of the defendant, and they may be issued at the same or different times."

**§ 6. Personal Service: Manner of.**—"SEC. 62. The summons shall be served by delivering a copy thereof, as follows: (1) If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier or managing agent thereof. (2) If against any county, to the county auditor. (3) If the suit be against a foreign corporation, or a non-resident joint stock company or association doing business within this Territory, to an agent, cashier or secretary thereof. (4) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this

<sup>2</sup>For balance of sec. 60, see chapter on *Lis Pendens*, *infra*.

Territory, then to any person having the care or control of such minor, or with whom he resides or in whose service he is employed. (5) If against a person for whom a guardian has been appointed for any cause, to such guardian. (6) In all other cases, to the defendant personally."

**§ 7. Service by Publication: When Allowable.**—"SEC. 63. When the person on whom the service is to be made has property within this Territory, but resides out of the Territory, or has departed from the Territory, or cannot, after due diligence, be found within the Territory, or conceals himself to avoid the service of summons, or the defendant is a foreign corporation and has property within the Territory, or the cause of action against such corporation arose within the Territory, and the fact shall appear by affidavit to the satisfaction of the district court, or a judge thereof, or a judge of the probate court, and it shall, in like manner, appear that a cause of action exists against the defendant in respect to whom the service is made, or that he is a necessary or proper party to the action, such court or judge may grant an order that the service be made by the publication of the summons. In no case shall a summons issue against a non-resident when the person has no property in the jurisdiction of the court, except in an action for divorce, which may be done by publication."

**§ 8. Service by Publication: Manner of.**—"SEC. 64. The order shall direct the publication to be made in a newspaper to be designated, as most likely to give notice to the person to be served, and for such length of time as may be deemed reasonable, at least once a week: *Provided*, That publication against a defendant residing out of the Territory or absent therefrom shall not be less than six weeks. In case of publication, where the residence or non-residence of an absent defendant is known, the court or judge shall also direct a copy of the summons and complaint to be forthwith deposited in the postoffice, directed to the person to be served, at his place of residence. When publication is ordered, personal service of a copy of the summons and complaint out of the Territory, shall be equivalent to publication and deposit in the postoffice. In either case the service of the summons shall be deemed complete twenty days after the last day of publication prescribed by the order for publication."

**§ 9. Subpena in Chancery.**—"SEC. 66. The writ of subpena in chancery may also be served by the sheriff or his deputy as well as by the persons authorized by the rules in equity, and sections 63, 64 and 65 shall apply to suits in equity in so far as said sections do not conflict with the said rules."

**§ 10. Service on Certain Joint Defendants.**—"SEC. 67. When the action is against two or more defendants and the summons is served on one or more, but not on all of them, the plaintiff may proceed as follows: (1) If the action be against the defendants jointly indebted upon a contract, he may proceed against the defendants served, unless the court otherwise direct, and if he recover judgment, it may be entered against all the defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all, and the separate property of the defendants served. (2) If the action be against the defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants."

**§ 11. Proof of Service.**—"SEC. 68. Proof of the service of the summons and copy of complaint, shall be as follows: (1) If served by the sheriff or his deputy, the certificate of such sheriff or deputy. (2) If by any other person, his affidavit thereof. (3) If served by publication, the affidavit of the publishers, their foreman or principal clerk, showing the same, and an affidavit of the deposit of the summons and copy of complaint in the postoffice, as required above, if the same shall have been deposited; or (4) the written admission of the defendant. (5) If personal services shall be made out of the Territory, proof may be made by

the affidavit of the person who makes the service, taken before the clerk of a court of record having a seal, and certified by him under the seal of said court, or by evidence in open court; or if personal service is made by a person requested so to do by the plaintiff or his attorney, by the affidavit of such person taken before the clerk of a court having a seal, with his certificate thereto attached, under his hand and the seal of said court, but such affidavits must state the time, place and manner of service."

§ 12. **Proof of Service: What Certificate Shall State—Jurisdiction of Court.**—"SEC. 69. In case of service otherwise than by publication, the certificate or affidavit shall state the time and place of the service, and from the time of service of the summons and copy of complaint in an action at law, the court shall be deemed to have acquired jurisdiction and to have control of all the subsequent proceedings."

§ 13. **Effect of Voluntary Appearance.**—"SEC. 70. A voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him."

§ 14. **Inconsistent Forms Abolished.**—"SEC. 71. All the forms of pleadings heretofore existing in actions at law, inconsistent with the provisions of this act, are abolished, and hereafter the forms of pleadings in such action and the rule by which the sufficiency of pleadings is to be determined, shall be as herein prescribed."

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#### No. 151.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

#### CHAPTER IV.

§ 2. **Summons: Issuance of.**—SEC. 59. Civil actions in the several district courts of this Territory shall be commenced by the filing of a complaint with the clerk of the court in which the action is brought, and the issuing of a summons thereon: *Provided*, That after the filing of the complaint, a defendant in the action may appear, answer or demur whether the summons has been issued or not, and such appearance, answer or demurrer shall be deemed a waiver of summons.

§ 3. **What Summons Shall State.**—SEC. 60. The clerk shall endorse on the complaint the day, month and year the same is filed, and at any time within one year after the filing of the same the plaintiff may have a summons issued. The summons shall run in the name of the United States of America, be signed by the clerk, tested in the name of the judge of the court from which it issues, be directed to the defendant, and be issued under the seal of the court. The summons shall state the parties to the action, the court in which it is brought, the county in which the complaint is filed, the cause and general nature of the action, and require the defendant to appear and answer the complaint within the time mentioned in this section after the service of the summons, exclusive of the day of service, or that judgment by default will be taken against him according to the prayer of the complaint, briefly stating the sum of money or other relief demanded in the complaint, and the clerk shall also endorse on the summons the names of the plaintiff's attorneys. The time in which the summons shall require the defendant to answer the complaint shall be as follows: (1) If the defendant is served within the county in which the action is brought, twenty days; (2) if the defendant is served out of the

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Blen. Sess. 1873, pp. 3, 16, 176.) For repealing clause see No. 121, § 3.

county but in the district in which the action is brought, thirty days; (3) in all other cases, sixty days. There shall also be inserted in the summons a notice in substance as follows: (1) In an action arising on contract for the recovery only of money or damages, that the plaintiff will take judgment for a sum specified therein if the defendant fail to answer the complaint. (2) In other actions, that if the defendant fail to answer the complaint the plaintiff will apply to the court for the relief demanded therein.<sup>2</sup> \* \* \*

**§ 4. Personal Service: Who Shall Make.**—SEC. 61. The summons shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person specially appointed by him or appointed by a judge of the court in which the action is brought, or by any citizen of the United States over twenty-one years of age, other than the plaintiff, and who is competent to be a witness on the trial of the action. A copy of this complaint shall be served with the summons. When the summons is served by the sheriff or his deputy, it shall be returned with the certificate or affidavit of the officer, of its service, and of the service of the copy of the complaint, to the office of the clerk from which the summons issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the clerk from which it issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the clerk from which it issued, with the affidavit of such person of its service, and of the service of the copy of the complaint. The plaintiff shall be entitled to as many writs of summons in the same suit as may be necessary to obtain jurisdiction of the person of the defendant, and they may be issued at the same or different times.

**§ 5. Personal Service: Manner of—Alias Summons.**—SEC. 62. The summons shall be served by delivering a copy thereof, as follows: (1) If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier or managing agent thereof. (2) If against any county in this Territory, to the county auditor. (3) If the suit be against a foreign corporation, or a non-resident joint stock company or association doing business within this Territory, to an agent, cashier or secretary thereof. (4) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (5) If against a person for whom a guardian has been appointed for any cause, to such guardian. (6) In all other cases, to the defendant personally, or if he be not found to some suitable person at the dwelling house or usual place of abode of the defendant.

**§ 6. Service by Publication: When Allowable.**—SEC. 63. When the person on whom the service is to be made has property within this Territory but resides out of the Territory, or has departed from the Territory, or cannot, after due diligence, be found within the Territory, or conceals himself to avoid the service of summons, or the defendant is a foreign corporation and has property within the Territory, or the cause of action against such corporation arose within the Territory, and the fact shall appear by affidavit to the satisfaction of the district court, or a judge thereof, or a judge of the probate court, and it shall in like manner, appear that a cause of action exists against the defendant in respect to whom the service is made, or that he is a necessary or proper party to the action, such court or judge may grant an order that the service be made by the publication of the summons.

**§ 7. Service by Publication: Manner of.**—SEC. 64. The order shall direct the publication to be made in a newspaper to be designated as

<sup>2</sup>For balance of sec. 60, see chapter on *Lis Pendens*, *infra*.



most likely to give notice to the person to be served, and for such length of time as may be deemed reasonable, at least once a week: *Provided*, That publication against a defendant residing out of the Territory, or absent therefrom, shall not be less than six weeks. In case of publication, where the residence or non-residence of an absent defendant is known, the court or judge shall also direct a copy of the summons and complaint to be forthwith deposited in the postoffice, directed to the person to be served, at his place of residence. When publication is ordered, personal service of a copy of the summons and complaint out of the Territory shall be equivalent to publication and deposit in the postoffice. In either case the service of the summons shall be deemed complete after the last day of publication prescribed by the order for publication.

**§ 8. When and How Defendant May Appear.**—SEC. 65. The defendant against whom publication is made, or his personal representatives, on application and sufficient cause shown at any time before judgment, shall be allowed to defend the action; and the defendant against whom publication is made, or his representatives, may in like manner upon good cause shown and upon such terms as may be proper, be allowed to defend after judgment, and within one year after the entry of such judgment on such terms as may be just; and if the defense be successful, and the judgment or any part thereof have been collected or otherwise enforced, such restitution may thereupon be compelled as the court shall direct. But the title to property sold upon execution issued on such judgment to a purchaser in good faith shall not be thereby affected.

**§ 9. Service on Certain Joint Defendants.**—SEC. 66. When the action is against two or more defendants and the summons is served on one or more, but not on all of them, the plaintiff may proceed as follows: (1) If the action be against the defendants jointly indebted upon a contract, he may proceed against the defendants served, unless the court otherwise direct, and if he recover judgment, it may be entered against all the defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all, and the separate property of the defendants served. (2) If the action be against the defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants.

**§ 10. Proof of Service.**—SEC. 67. Proof of the service of the summons and copy of complaint shall be as follows: (1) If served by the sheriff or his deputy, the certificate of such sheriff or deputy. (2) If by any other person, his affidavit thereof. (3) If served by publication, the affidavit of the publishers, their foreman or principal clerk, showing the same, and an affidavit of deposit of the summons and copy of the complaint in the postoffice as required above, if the same shall have been deposited; or (4) the written admission of the defendant or his attorney. (5) If personal service shall be made out of the Territory, proof may be made by the affidavit of the person who makes the service, taken before the clerk of a court of record having a seal, and certified by him under the seal of said court or by evidence in open court; or if personal service is made by a person requested so to do by the plaintiff or his attorney, by the affidavit of such person taken before the clerk of a court having a seal, with his certificate thereto attached, under his hand and the seal of said court; but such affidavit must state the time, place and manner of service.

**§ 11. Proof of Service: What Certificate Shall State—Jurisdiction of Court.**—SEC. 68. In case of service otherwise than by publication, the certificate or affidavit shall state the time and place of the service, and from the time of service of the summons and copy of complaint in an action at law the court shall be deemed to have acquired jurisdiction and to have control of all the subsequent proceedings.

§ 12. **Effect of Voluntary Appearance.**—SEC. 69. A voluntary appearance of the defendant shall be equivalent to personal service of the summons upon him.

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CHAPTER LXII.

\* \* \* \* \*

§ 13. **Service on New Parties.**—SEC. 682. When a new party is introduced into an action as a representative or successor of a former party, such new party is entitled to the same notice, to be given in the same manner, as required for defendants in the commencement of an action.

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**No. 152.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

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CHAPTER IV.

§ 2. **Summons: Issuance of.**—SEC. 60. Civil actions in the several district courts of this Territory shall be commenced by the filing of a complaint with the clerk of the court in which the action is brought, and the issuing of a summons thereon: *Provided*, That after the filing of the complaint a defendant in the action may appear, answer or demur whether, the summons has been issued or not, and such appearance, answer or demurrer shall be deemed a waiver of summons.

§ 3. **What Summons Shall State.**—SEC. 61. The clerk shall endorse on the complaint the day, month and year the same is filed, and at any time within one year after the filing of the same the plaintiff may have a summons issued. The summons shall run in the name of the United States of America, be signed by the clerk, tested in the name of the judge of the court from which it issues, and dated, be directed to the defendant, and be issued under the seal of the court. The summons shall state the parties to the action, the court in which it is brought, the county in which the complaint is filed, and require the defendant to appear and answer the complaint within the time mentioned in this section after the service of the summons, exclusive of the day of service, or that judgment by default will be taken against him according to the prayer of the complaint; and the clerk shall also endorse on the summons the names of the plaintiff's attorneys. The time in which the summons shall require the defendant to answer the complaint shall be as follows: (1) If the defendant is served within the county in which the action is brought, twenty days. (2) If the defendant is served out of the county but in the district in which the action is brought, thirty days. (3) If served in any other judicial district in the Territory, forty days. (4) If served by publication as herein-after provided, within sixty days after the date of the summons: *Provided*, That if service is to be made by publication the summons shall contain, in addition to the requirements of this section, the cause and general nature of the action.

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§ 4. **Personal Service: Who Shall Make—Alias Summons.**—SEC. 63. The summons shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person specially appointed by him or appointed by a judge of the court in which the action is brought, or by

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Blen. Sess. 1877, p. 3, 13, 151.) For date when in effect and repealing clause see No. 122, §§ 3, 4.



any citizen of the United States over twenty-one years of age, other than the plaintiff, and who is competent to be a witness on the trial of the action. A copy of this complaint shall be served with the summons except where the service is by publication. When the summons is served by the sheriff or his deputy, it shall be returned with the certificate or affidavit of the officer, of its service, and of the service of the copy of the complaint, to the office of the clerk from which the summons issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the clerk from which it issued, with the affidavit of such person of its service, and of the service of the copy of the complaint. The plaintiff shall be entitled to as many writs of summons in the same suit as may be necessary to obtain jurisdiction of the person of the defendant, and they may be issued at the same or different times.

**§ 5. Personal Service: Manner of.**—SEC. 64. The summons shall be served by delivering a copy thereof, as follows: (1) If the suit be against a corporation, to the president, or other head of the corporation, secretary, cashier or managing agent thereof. (2) If against any county in this Territory, to the county auditor. (3) If the suit be against a foreign corporation, or a non-resident joint stock company or association doing business within this Territory, to an agent, cashier or secretary thereof. (4) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (5) If against a person for whom a guardian has been appointed for any cause, to such guardian. (6) In all other cases, to the defendant personally, or if he be not found, to some suitable person at the dwelling house or usual place of abode of the defendant.

**§ 6. Service by Publication: Affidavit for.**—SEC. 65. If at the time complaint is filed, or any time afterward, the plaintiff or intervenor, or an attorney in the action for the plaintiff or intervenor, file in the action his affidavit stating that the person on whom service is to be made resides out of the Territory, or has departed from the Territory, or cannot, after due diligence, be found within the Territory, or conceals himself to avoid the service of summons, or the defendant or the party to be served is a foreign corporation, or the cause of action against such corporation arose within the Territory, service may be made by the publication of the summons.

**§ 7. Service by Publication: When Summons for Shall Issue.**—SEC. 66. When the affidavit required in section sixty-five has been filed, the clerk of the court shall make out a summons as required in section sixty-one, and shall deliver the same to the person filing the affidavit, or his attorney in the action.

**§ 8. Service by Publication: Manner of.**—SEC. 67. Service of the summons by publication shall be made by advertising the same in full in some weekly newspaper published in the county where the court is held, if any such there be, and if not, then in a weekly newspaper of general circulation in the county where the court is held, published in the judicial district where said court is held. Such publication shall be once a week for six consecutive weeks, and the service of the summons shall be deemed complete on the last day of publication. Such summons must be published for the first time within the fourteen days following the date of said summons, and if not so published, a new summons for publication must be obtained.

**§ 9. When and How Defendant May Appear.**—SEC. 68. The defendant against whom publication is made, or his personal representatives, on application and sufficient cause shown at any time before judgment,

shall be allowed to defend the action; and the defendant against whom publication is made, or his representatives, may in like manner, upon good cause shown and upon such terms as may be proper, be allowed to defend after judgment, and within one year after the entry of such judgment on such terms as may be just; and if the defense be successful, and the judgment or any part thereof have been collected or otherwise enforced, such restitution may thereupon be compelled as the court shall direct. But the title to property sold upon execution issued on such judgment to a purchaser in good faith, shall not be thereby affected.

§ 10. **Service on Certain Joint Defendants.**—SEC. 69. When the action is against two or more defendants and the summons is served on one or more, but not on all of them, the plaintiff may proceed as follows: (1) If the action be against the defendants jointly indebted upon a contract, he may proceed against the defendants served unless the court otherwise direct, and if he recover judgment it may be entered against all the defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all, and the separate property of the defendants served. (2) If the action be against the defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants.

§ 11. **Proof of Service.**—SEC. 70. Proof of the service of the summons and copy of complaint shall be as follows: (1) If served by the sheriff or his deputy, the certificate of such sheriff or deputy. (2) If by any other person, his affidavit thereof. (3) If the service is by publication of the summons, the original summons shall be returned to the clerk of the court who issued it, accompanied by a printed copy thereof as published, together with the affidavit of the editor, publisher, foreman or principal clerk employed in the newspaper office where published, showing in what capacity the affiant makes the affidavit, the name of such weekly newspaper, the place where it is published and its general circulation in the county where the court is held if not published in such county, and that the printed copy as returned was published for six consecutive weeks in such newspaper, and showing also the date of the first publication and the date of the last publication thereof, and that said newspaper named is a newspaper published at least once a week as a weekly newspaper in the county or judicial district required in section 67 of this act. (4) The written admission of the defendant or his attorney.

§ 12. **Proof of Service: What Certificate Shall State—Jurisdiction of Court.**—SEC. 71. In case of service otherwise than by publication, the certificate or affidavit shall state the time and place of the service, and from the time of service of the summons and copy of complaint in an action at law the court shall be deemed to have acquired jurisdiction and to have control of all the subsequent proceedings.

§ 13. **Effect of Voluntary Appearance.**—SEC. 72. A voluntary appearance of the defendant shall be equivalent to personal service of the summons and a copy of the complaint upon him.

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CHAPTER LXI.

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§ 14. **Service on New Parties.**—SEC. 747. When a new party is introduced into an action as a representative or successor of a former party, such new party is entitled to the same notice, to be given in the same manner, as required for defendants in the commencement of an action.

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**No. 153.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

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**CHAPTER IV.**

**§ 2. Summons: Issuance of.**—SEC. 59. Civil actions in the several district courts in this Territory shall be commenced by the filing of a complaint with the clerk of the court in which the action is brought, and the issuing of a summons thereon: *Provided*, That after the filing of the complaint a defendant in the action may appear, answer or demur whether the summons has been issued or not, and such appearance, answer or demurrer shall be deemed a waiver of summons.

**§ 3. What Summons Shall State.**—SEC. 60. The clerk shall endorse on the complaint the day, month and year the same is filed, and at any time within one year after the filing of the same, the plaintiff may have a summons issued. The summons shall run in the name of the United States of America, be dated and signed by the clerk, tested in the name of the judge of the court in which it issues, directed to the defendant, and issued under the seal of the court. The summons shall state the parties to the action, the court in which it is brought, the county in which the complaint is filed, and require the defendant to appear and answer the complaint within the time mentioned in this section after the service of the summons, exclusive of the day of service, or judgment will be taken according to the prayer of the complaint. The clerk shall endorse on the summons the names of the plaintiff's attorneys. The time in which the summons shall require the defendant to answer shall be as follows: (1) If the defendant is served within the county in which the action is brought, twenty days. (2) If the defendant is served out of the county, but in the district in which the action is brought, thirty days. (3) If served in any other judicial district in the Territory, forty days. (4) If served by publication as hereafter provided, within sixty days after the date of the first publication of the summons: *Provided*, That if service is to be made by publication the summons shall contain, in addition to the requirements of this section, the cause and general nature of the action.

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**§ 4. Personal Service: Who Shall Make—Alias Summons.**—SEC. 62. The summons shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person specially appointed by him or appointed by a judge of the court in which the action is brought, or by any citizen of the United States over twenty-one years of age, other than the plaintiff, and who is competent to be a witness on the trial of the action. A copy of this complaint shall be served with the summons except where the service is by publication. When the summons is served by the sheriff or his deputy, it shall be returned with the certificate or affidavit of the officer of its service, and of the service of the copy of the complaint, to the office of the clerk from which the summons issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the clerk from which it issued, with the affidavit of such person of its service and of the service of the copy of the complaint. The plaintiff shall be entitled to as many writs of summons in the same suit as may be necessary to obtain jurisdiction of the person of the defendant, and they may be issued at the same or different times.

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 43, 154.) For date when in effect and repealing clause, etc., see Nos. 338, 339, 340.

§ 5. **Personal Service: Manner of.**—SEC. 63. The summons shall be served by delivering a copy thereof as follows: (1) If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier or managing agent thereof. (2) If against any county in this Territory, to the county auditor. (3) If the suit be against a foreign corporation, or a non-resident joint stock company or association, doing business within this Territory, to an agent, cashier or secretary thereof. (4) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (5) If against a person for whom a guardian has been appointed for any cause, to such guardian. (6) In all other cases, to the defendant personally, or if he be not found, to some suitable person at the dwelling house or usual place of abode of the defendant.

§ 6. **Service by Publication: Affidavit for.**—SEC. 64. If at the time the complaint is filed, or at any time afterward, the plaintiff, or intervenor, or an attorney in the action for the plaintiff or intervenor, file in the action his affidavit, stating that the person on whom service is to be made resides out of the Territory, or has departed from the Territory, or cannot, after due diligence, be found within the Territory, or conceals himself to avoid the service of summons, or the defendant or the party to be served is a foreign corporation, or the cause of action against such corporation arose within the Territory, service may be made by the publication of the summons.

§ 7. **Service by Publication: Issuance of Summons.**—SEC. 65. When the affidavit required in section sixty-four has been filed, the clerk of the court shall make out a summons, as required in section sixty, and shall deliver the same to the person filing the affidavit, or his attorney in the action.

§ 8. **Service by Publication: Manner of.**—SEC. 66. Service of the summons by publication shall be made by advertising the same in full in some weekly newspaper, published in the county where the court is held, if any such there be, and if not, then in a weekly newspaper of general circulation in the county where the court is held, published in the judicial district where said court is held. Such publication shall be made once a week for six consecutive weeks. Such summons must be published for the first time within the fourteen days following the date of said summons, and if not so published a new summons for publication must be obtained.

§ 9. **When and How Defendant May Appear.**—SEC. 67. The defendant against whom publication is made, or his personal representatives, on application and sufficient cause shown at any time before judgment, shall be allowed to defend the action; and the defendant against whom publication is made, or his representatives, may in like manner, upon good cause shown and upon such terms as may be proper, be allowed to defend after judgment, and within one year after the entry of such judgment, on such terms as may be just; and if the defense be successful, and the judgment or any part thereof have been collected or otherwise enforced, such restitution may thereupon be compelled as the court shall direct. But the title to property sold upon execution issued on such judgment to a purchaser in good faith, shall not be thereby affected.

§ 10. **Service on Certain Joint Defendants.**—SEC. 68. When the action is against two or more defendants and the summons is served on one or more, but not on all of them, the plaintiff may proceed as follows: (1) If the action be against the defendants jointly indebted upon a con-

tract, he may proceed against the defendants served, unless the court otherwise direct, and if he recover judgment, it may be entered against all the defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all, and the separate property of the defendants served. (2) If the action be against the defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants.

§ 11. **Proof of Service.**—SEC. 69. Proof of the service of the summons and copy of complaint shall be as follows: (1) If served by the sheriff or his deputy, the return of such sheriff or deputy. (2) If by any other person, his affidavit thereof. (3) The written admission of the defendant, dated and endorsed upon the summons, stating the time and place of service. (4) In case of publication the affidavit of the editor, publisher, foreman or principal clerk of such publication. If the service is by publication, the original summons shall be returned to the clerk of the court who issued it accompanied by a printed copy thereof as published, together with the affidavit of the editor, publisher, foreman or principal clerk employed in the newspaper office where published, showing in what capacity the affiant makes the affidavit, the name of such weekly newspaper, the place where it is published, and its general circulation in the county where the court is held if not published in such county, and that the printed copy as returned was published for six consecutive weeks in such newspaper, and showing also the date of the first publication and the date of the last publication thereof, and that said newspaper named is a newspaper published at least once a week as a weekly newspaper, in the county or judicial district required in section sixty-six of this act.

§ 12. **Jurisdiction of Court: When Acquired.**—SEC. 70. From the time of service of the summons and copy of the complaint, in an action at law, the court shall be deemed to have acquired jurisdiction and to have control of all the subsequent proceedings.

§ 13. **Effect of Voluntary Appearance.**—SEC. 71. A voluntary appearance of the defendant shall be equivalent to personal service of the summons and a copy of the complaint upon him.

§ 14. **How Appearance Made.**—SEC. 72. A defendant appears in an action when he answers, demurs or gives the plaintiff written notice of his appearance, or when an attorney gives notice of appearance for him. After appearance a defendant or his attorney is entitled to notice of all subsequent proceedings, of which notice is required to be given. But where a defendant has not appeared, service of notice or papers need not be made upon him unless he is imprisoned for want of bail.

\* \* \* \* \*

#### CHAPTER LXIV.

\* \* \* \* \*

§ 15. **Service on New Parties.**—SEC. 742. When a new party is introduced into an action as a representative or successor of a former party, such new party is entitled to the same notice, to be given in the same manner, as required for defendants in the commencement of an action.

\* \* \* \* \*

#### No. 153 $\frac{1}{2}$ .—CHAPTER CLXXVI—TELEGRAPHIC MESSAGES.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup>See Chapter XXI, Division I, Part III, "Telegraphs."

**No. 154.—AN ACT TO AMEND CHAPTER IV OF THE CODE OF WASHINGTON TERRITORY, RELATING TO THE MANNER OF COMMENCEMENT OF CIVIL ACTIONS.<sup>1</sup>**

**§ 1. What Summons Shall State.**—*Be it enacted, etc.,* SECTION 1. That section 60 of chapter 4 of the Code of Washington Territory, relating to the manner of commencement of civil actions, be and the same is hereby amended to read as follows: Section 60. The clerk shall indorse on the complaint the day, month and year the same is filed, and at any time within one year after the filing of the same the plaintiff may have a summons issued. The summons shall run in the name of the United States of America; be dated and signed by the clerk; tested in the name of the judge of the court in which it issues, and contain the cause and general nature of the action, directed to the defendant and issued under the seal of the court. The summons shall state the parties to the action, the court in which it is brought, the county in which the complaint is filed, and require the defendant to appear and answer the complaint within the time mentioned in this section, after the service of the summons, exclusive of the day of service, or judgment will be taken according to the prayer of the complaint. The clerk shall indorse on the summons the name of the plaintiff's attorney. The time in which the summons shall require the defendant to answer shall be as follows: (1) If the defendant is served within the county in which the action is brought, twenty (20) days. (2) If the defendant is served out of the county, but in the district in which the action is brought, thirty (30) days. (3) If served within any other judicial district within the Territory, forty (40) days. (4) If served by publication, as hereafter provided, within sixty (60) days after the date of the first publication of the summons.

**§ 2. Personal Service: What Shall State.**—SEC. 2. That section 62 of said chapter 4 be and the same is hereby amended to read as follows: Section 62. The summons shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person specially appointed by him, or appointed by a judge of the court in which the action is brought, or by any citizen of the United States over twenty-one (21) years of age, other than the plaintiff, and who is competent to be a witness on the trial of the action. When the summons is served by a sheriff, or his deputy, it shall be returned with the certificate or affidavit of the officer of its service to the office of the clerk from which the summons issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the clerk from which it issued, with the affidavit of such person of its service. The plaintiff shall be entitled to as many writs of summons in the same suit as may be necessary to obtain jurisdiction of the person of the defendant, and they may be issued at the same or different times.

**§ 3. Personal Service: Manner of.**—SEC. 3. That section 63 of said chapter 4 be and the same is hereby amended to read as follows: Section 63. The summons shall be served by delivering a copy thereof as follows: (1) If against any county in this Territory, to the county auditor. (2) If against any town or incorporated city in this Territory, to the mayor thereof. (3) If against a school district, to the clerk thereof. (4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within the Territory. (5) If against a corporation owning or operating sleeping or hotel cars or the like, to any person having charge of any of its cars or any agent found within the Territory. (6) If against an insurance corporation, to any agent authorized by such corporation to solicit insurance within the Territory. (7) If against a corpora-

<sup>1</sup>Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 67.) In effect from date. All conflicting acts and parts of acts repealed. For act referred to in title see No. 153, *supra*.

tion doing an express business, to any agent authorized by said corporation to receive and deliver express matters and collect pay therefor for such corporation within the Territory. (8) If the suit be against a corporation other than designated in the preceding seven subdivisions of this section, to the president or other head of the corporation, secretary, cashier or managing agent thereof. (9) If the suit be against a foreign corporation or non-resident joint stock company or association doing business within this Territory, to an agent, cashier or secretary thereof. (10) If against a minor under the age of fourteen (14) years, to such minor personally and also to his father, mother, guardian, or if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. (11) If against any person for whom a guardian has been appointed for any cause, to such guardian. (12) In all other cases, to the defendant personally, or, if he be not found, to some suitable person, the dwelling house or usual place of abode of the defendant.

**§ 4. Proof of Service.**—SEC. 4. That section 69 of said chapter IV be and the same is hereby amended to read as follows: Section 69. Proof of the service of the summons shall be as follows: (1) If served by the sheriff or his deputy, the return of such sheriff or deputy. (2) If by any other person, his affidavit thereof. (3) The written admission of the affidavit, dated and indorsed upon the summons, stating the time and place of service. (4) In case of publication, the affidavit of the editor, publisher, foreman or principal clerk to such publication. If the service is by publication, the original summons shall be returned to the clerk of the court who issued it, accompanied by a printed copy thereof as published, together with the affidavit of the editor, publisher, foreman or principal clerk employed in the newspaper office where published, showing in what capacity the affiant makes the affidavit, the name of such weekly newspaper, the place where it is published and its general circulation in the county where the court is held, if not published in such county, and that the printed copy as returned was published for six (6) consecutive weeks in such newspaper, and showing also the date of the first publication and the date of the last publication thereof, and that the said newspaper named is a newspaper published at least once a week as a weekly newspaper in the county or judicial district in which the court is held.

**§ 5. Jurisdiction of Court: When Acquired.**—SEC. 5. That section 70 of said chapter IV be and the same is hereby amended to read as follows: "Section 70. From the time of service of the summons in an action at law the court shall be deemed to have acquired jurisdiction and to have control of all the subsequent proceedings."

\* \* \* \* \*

### No. 155.—AN ACT TO PROVIDE THE MANNER OF COMMENCING CIVIL ACTIONS.<sup>1</sup>

**§ 1. Summons: Issuance of: What Shall State.**—*Be it enacted, etc.,*  
SECTION 1. That civil actions in the several district courts of this Territory may be commenced by filing a complaint and issuing summons signed by the clerk of the court and under the seal of the court substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF —, ss.

[Here insert names of parties plaintiff and defendant.]

To the above named defendant: You are hereby requested to appear in the district court of the — judicial district, holding terms at —, within twenty days after the service of this summons, exclusive of the day of service, if served in the above county, if not served in said county, but in said district, in thirty days, if served in any other judicial

<sup>1</sup> Approved Feb. 2, 1888. (See Tenth Blen. Sess. 1887-88, p. 24.)



district in the Territory in forty days, and answer the complaint, of the above named plaintiff now on file in the office of the clerk of said court, and unless you so appear and answer the same will be taken as confessed and the prayer thereof granted.

Witness my hand and the seal of said court this — day of —, 18—.

—, Clerk of said Court.

\* \* \* \* \*  
**§ 2. Personal Service: Who Shall Make.**—**SEC. 3.** In all cases except where service is made by publication as hereinafter provided, the summons shall be served by the sheriff of the county where service is had, or by his deputy, or by any citizen of the United States over twenty-one years of age, who is competent to be a witness in the action, other than the plaintiff. The summons shall be returned to the clerk of the proper district court with the return of the sheriff or his deputy endorsed thereon, or if served by any other person, his affidavit of service.

**§ 3. Personal Service: Manner of.**—**SEC. 4.** The summons shall be served by delivering a copy thereof as follows: If the action be against any county in this Territory, to the county auditor. If against any town or incorporated city in this Territory, to the mayor or president thereof. If against a school district, to the clerk thereof. If against a railroad corporation, to any station, freight, ticket or other agent thereof within this Territory. If against a corporation owning or operating sleeping cars or hotel cars, to any person having charge of any of its cars, or any agent found within the Territory. If against any insurance company, to any agent authorized by such company or corporation to solicit insurance within the Territory. If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this Territory. If the suit be against a company or corporation other than designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, secretary, cashier or managing agent thereof. If the suit be against a foreign corporation or non-resident joint stock company or association doing business within this Territory, to any agent, cashier or secretary thereof. If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this Territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed, if such there be. If against any person for whom a guardian has been appointed for any cause, then to such guardian. In all other cases, to the defendant personally, or, if he be not found, to some suitable person at the dwelling house or usual place of abode of such defendant.

**§ 4. Service by Publication: Affidavit for.**—**SEC. 5.** In case service cannot be had as provided for in the preceding section by reason of the absence of the defendant, which fact may be shown by the affidavit of the plaintiff or his attorney, the summons with a brief statement of the object of the action may be served by publication thereof in some weekly newspaper, printed and published and of general circulation in the county in which the court is held, if such newspaper there be, otherwise in some newspaper printed and published in the Territory, which summons shall be published not less than once a week for six consecutive weeks, and shall require the defendant to appear and answer the complaint within sixty days from the date of the first publication thereof. Said summons may be substantially as follows:

TERRITORY OF WASHINGTON, COUNTY OF —, ss.

—, Plaintiff,

vs.

—, Defendant.

To the above named defendant: You are hereby notified that —, plaintiff, has filed a complaint against you in the district court of the — judicial district, holding terms at —, which will come on to be heard sixty days after the first publication of his (this) summons, to wit: Sixty days after [here insert date of first publication] and unless you appear and answer the same on or before the — day of —, 18—, the same will be

taken as confessed and the prayer of the said complaint granted. The object and prayer of said complaint is [here insert a brief statement of the nature or object of the action].  
Witness my hand and the seal of said court this — day of —, 18—. —, Clerk.

Before publication of the summons is made the complaint shall be filed with the clerk of the court where the action is pending, and forthwith upon publication the plaintiff shall cause a copy of the summons to be deposited in the postoffice, the postage thereon being prepaid, directed to the defendant at his place of residence, unless it shall appear that such residence is not known to, or cannot, after reasonable diligence, be ascertained by the plaintiff or his attorney, and before the hearing of the action the court or judge shall be satisfied by affidavit or other proof that all the provisions herein contained have been complied with: *Provided*, That personal service out of the Territory, proven by the affidavit of the person making the same, sworn to before a notary public, with a seal, or before a clerk of a court of record, shall be equivalent to service by publication, and defendant shall be required to answer within sixty days from the date of such service.

§ 5. **Alias Summons: When Issuable.**—SEC. 6. Whenever it shall appear by the return of the sheriff, or his deputy, or the person appointed to serve a summons, that he has not served them upon the defendant, the plaintiff may issue another summons, and so on till service be had, or the plaintiff may proceed by publication in the manner hereinbefore provided, at his election.

§ 6. **Service on Certain Joint Defendants.**—SEC. 7. When the action is against two or more defendants upon a joint contract or liability, and one or more of the defendants cannot be served, the plaintiff may proceed to judgment against the defendant or defendants served, and at any time thereafter, while such judgment remains unsatisfied, the plaintiff or his attorney may issue summons to the defendant or defendants not served, and upon service thereof upon such defendant or defendants, the same proceedings may be had as [as] he or they had been originally served. When the action is against defendants severally, or jointly, and severally liable, the plaintiff may proceed against the defendant or defendants served in the same manner as though they were the only defendants.

§ 7. **Proof of Service.**—SEC. 8. Proof of service shall be as follows: (1) If served by the sheriff or his deputy, the return of such sheriff or his deputy endorsed upon or attached to the summons. (2) If by any other person, his affidavit thereof endorsed upon or attached to the summons; or, (3) in case of publication, the affidavit of the printer, publisher, foreman, principal clerk or business manager of the newspaper, showing the same, together with a printed copy of the summons as published; or, (4) the written admission of the defendant. (5) In case of personal service out of the Territory the affidavit of the person making the service, sworn to before a notary public, with a seal attached, or a clerk of a court of record. In case of service otherwise than by publication the return, admission, or affidavit must state the time, place and manner of service.

§ 8. **Jurisdiction of Court: When Acquired.**—SEC. 9. The action shall be deemed commenced and court shall have obtained jurisdiction of the action from the time the complaint is filed with the clerk, and shall have control of all subsequent proceedings.

§ 9. **Effect of Voluntary Appearance.**—SEC. 10. A voluntary general appearance of defendant shall be equivalent to personal service.

§ 10. **"He," "Him," Construed.**—SEC. 11. That whenever the words he or him occur in this act they shall be read as she or her or it, as occasion may require.

§ 11. **Repealing Clause—When in Effect.**—SEC. 12. All acts or parts of parts [acts] upon the subject of this act are hereby repealed; this act to take effect and be in force from and after the first day of March, 1888.

2. LIS PENDENS.

**No. 156.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS," APPROVED DECEMBER 2, 1869.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. Notice: What Shall State and How Filed.—SEC. 3. Sections 60 \* \* \* of said act are hereby amended so as to read as follows, viz.: "Sec. 60. \* \* \* In an action affecting the title to real property the plaintiff, at the time of filing the complaint and the defendant at the time of filing his answer, when affirmative relief is claimed in such answer, or at any time afterwards, may file with the auditor of the county in which the property is situated a notice of the pendency of the action, containing the names of the parties to and the object of the action, and a description of the property in that county affected thereby; and the defendants may also in such notice state the nature and extent of the relief claimed in the answer. From the time of filing only shall the pendency of the action be constructive notice to a purchaser or incumbrancer of the property affected thereby."

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 3.)

**No. 157.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 16, chap. 4, sec. 60.) This No. is *verbatim* as No. 156, *supra*. For repealing clause, see No. 121, § 3.

**No. 158.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER IV.

§ 2. Notice: What Shall State and How Filed.—SEC. 62. In an action affecting the title to real property, the plaintiff at the time of filing the complaint and the defendant at the time of filing his answer, when affirmative relief is claimed in such answer, or at any time afterwards, may file with the auditor of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties to and the object of the action, and a description of the property in that county affected thereby; and the defendants may also in such notice state the nature and extent of the relief claimed in the answer. From the time of filing only, shall the pendency of the action be constructive notice to a purchaser or incumbrancer of the property affected thereby, and this notice shall be recorded by the auditor as deeds and other conveyances are recorded.

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 15.) For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 159.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 43, chap. 4, sec. 61.) This No. is *certified* as No. 158, *supra*. For date when in effect and repealing clause, see Nos. 338, 339, 340.

**3. ATTACHMENTS.**

**No. 160.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.**

**§ 1. SECTION 1. *Be it enacted, etc.***

\* \* \* \* \*

**XII.**

**§ 2. Writ: When May be Issued.**—SEC. 131. In an action for the recovery of money, the plaintiff, at the time of issuing the summons or at any time afterwards, may have the property of the defendant attached, in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover.

**§ 3. Affidavit for: Substance of.**—SEC. 132. A writ of attachment shall be issued by the clerk of the court in which the action is brought whenever the plaintiff, his agent or attorney shall make affidavit that a cause of action exists against such defendant, specifying the amount of such claim over and above all legal set-offs, and the nature thereof, and that, as the affiant verily believes, the defendant is either—(1) A foreign corporation; or (2) a non-resident of this Territory; or (3) is secretly leaving or has left the Territory, with intent to hinder, defraud or delay his creditors; or (4) is about to sell, convey or otherwise dispose of his property with like intent; or (5) is removing or about to remove his property subject to execution, or a material part thereof, out of this Territory, not leaving enough therein to satisfy the claim of the plaintiff; or (6) has concealed or is attempting to conceal himself, so that the ordinary process of law cannot be served upon him.

**§ 4. Absence—Absconding—Exception.**—SEC. 133. No attachment for the causes mentioned in the second and third clauses of the preceding section shall issue against any debtor while his family remains settled within the county where he usually resided prior to his absence, if he shall not continue absent from the Territory more than one year after he shall have absented himself, unless an attempt be made to conceal his absence.

**§ 5. Attempt to Conceal Absence, Defined.**—SEC. 134. If the wife or family of the debtor shall refuse or be unable to give an account of the cause of his absence, or the place where he may be found, or shall give a false account of either, such refusal, inability or false account shall be deemed an attempt to conceal his absence.

\* \* \* \* \*

**§ 6. How Writ Shall be Directed, and What Require.**—SEC. 136. The writ shall be directed and delivered to the sheriff. It shall require him to seize and take into his possession the property of the defendant in his county, not exempt from execution, or sufficient thereof to satisfy the amount of the plaintiff's claim and costs.

**§ 7. In What Case Judgment May be Had.**—SEC. 137. Writs of attachment may be issued to the sheriff of any other county; and several

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 155.) For repealing clause see No. 115, § 2.

of them may, at the option of the plaintiff, be issued at the same time or in succession. \* \* \* The plaintiff shall not have judgment in any such action, except in some one of the following cases, viz.: (1) When the defendant shall have been personally served with process, or (2) when property of the defendant shall have been attached in the county where the action is brought; \* \* \*

§ 8. **Service on Sunday: When Valid.**—SEC. 138. A writ of attachment may be issued and executed on Sunday, if the plaintiff will show in his affidavit that the defendant is about to abscond on that day, to the injury of the plaintiff.

§ 9. **How Writ Executed.**—SEC. 139. The sheriff shall proceed, with the assistance of a disinterested and credible householder of the county, to attach the lands and tenements, goods and chattels of the defendant subject to execution, and shall, with the assistance of such householder, make an inventory and appraisal thereof, and return the same with the writ.

§ 10. **Force of Writ.**—SEC. 140. A writ of attachment binds the defendant's property from the time it is served, in the same manner as an execution.

§ 11. **Personal Property Shall be First Taken.**—SEC. 141. The defendant's personal property shall be first taken under an attachment; if enough thereof is not found to satisfy the plaintiff's claim and costs of the action, then his real estate. \* \* \*

§ 12. **Estate, etc., of Non-Resident Heirs, Attachable.**—SEC. 142. The estate, property and interest descended to non-resident heirs or devisees, or vested in non-resident executors or administrators of decedents, shall be liable to an attachment for debt, or other demands against the decedent's estate.

\* \* \*  
§ 13. **Rights of Innocent Persons Protected.**—SEC. 146. An attachment shall only bind the interests of the defendant, subject to the rights existing at the time of the attachment of any other person to the property.

**No. 161.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

CHAPTER XI.

§ 2. **Writ: When May be Issued.**—SEC. 123. In an action for the recovery of money, the plaintiff, at the time of commencing suit, by placing in the hands of the sheriff of the proper county the complaint and notice, or at any time afterwards, may have the property of the defendant attached, in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover.

§ 3. **Affidavit for: Substance of.**—SEC. 124. A writ of attachment shall be issued by the clerk of the court in which the action is brought whenever the plaintiff, his agent or attorney, shall make affidavit that a cause of action exists against such defendant, specifying the amount of such claim over and above all legal set-offs, and the nature thereof; that suit thereon has been commenced, and that, as the affiant verily believes, the defendant is either—(1) A foreign corporation; or (2) a non-resident

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 28.) For repealing clause see No. 117, § 2.

of this Territory; or (3) is secretly leaving, or has left, the Territory with intent to hinder, defraud or delay his creditors; or (4) is about to sell, convey, or otherwise dispose of his property, with like intent; or (5) is removing or about to remove his property subject to execution, or a material part thereof, out of this Territory, not leaving enough therein to satisfy the claim of the plaintiff; or (6) has concealed or is attempting to conceal himself so that the ordinary process of law cannot be served upon him.

**§ 4. Absence—Absconding—Exception.**—SEC. 125. No attachment for the causes mentioned in the second and third clauses of the preceding section shall issue against any debtor while his family remains settled within the county where he usually resided prior to his absence, if he shall not continue absent from the Territory more than one year after he shall have absented himself, unless an attempt is made to conceal his absence.

**§ 5. Attempt to Conceal Absence, Defined.**—SEC. 126. If the wife or family of the debtor shall refuse or be unable to give an account of the cause of his absence, or the place where he may be found, or shall give a false account of either, such refusal, inability or false account shall be deemed an attempt to conceal his absence.

\* \* \* \* \*

**§ 6. How Writ Shall be Directed, and What Require.**—SEC. 128. The writ shall be directed and delivered to the sheriff. It shall require him to seize and take into his possession the property of the defendant in his county, not exempt from execution, or sufficient thereof to satisfy the amount of the plaintiff's claim and costs.

**§ 7. In What Case Judgment May be Had.**—SEC. 129. Writs of attachment may be issued to the sheriff of any other county, and several of them may, at the option of the plaintiff, be issued at the same time, or in succession; \* \* \* The plaintiff shall not have judgment in any such action, except in some one of the following cases, viz: (1) When the defendant shall have been personally served with process; or (2) when property of the defendant shall have been attached in the district or county where the action is brought; \* \* \*

**§ 8. Service on Sunday: When Valid.**—SEC. 130. A writ of attachment may be issued and executed on Sunday, if the plaintiff will show in his affidavit that the defendant is about to abscond on that day to the injury of the plaintiff.

**§ 9. How Writ Executed.**—SEC. 131. The sheriff shall proceed, with the assistance of a disinterested and credible householder of the county, to attach the lands and tenements, goods and chattels of the defendant, subject to execution, and shall, with the assistance of such householder, make an inventory and appraisalment thereof, and return the same with the writ.

**§ 10. Force of Writ.**—SEC. 132. A writ of attachment binds the defendant's property from the time it is served.

**§ 11. Personal Property Shall be First Taken.**—SEC. 133. The defendant's personal property shall be first taken under an attachment; if enough thereof is not found to satisfy the plaintiff's claim and costs of the action, then his real estate. \* \* \*

**§ 12. Estate, etc., of Non-Resident Heirs, Attachable.**—SEC. 134. The estate, property, and interest descended to non-resident heirs or devisees, or vested in non-resident executors or administrators of decedents, shall be liable to an attachment for debt or other demands against decedent's estate.

\* \* \* \* \*

**§ 13. Rights of Innocent Persons Protected.**—SEC. 138. An attachment shall only bind the interest of the defendant, subject to the rights existing at the time of the attachment, of any other person to the property.

\* \* \* \* \*

**No. 162.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

## CHAPTER XII.

§ 2. **Writ: When May be Issued.**—SEC. 146. In an action for the recovery of money, the plaintiff, at the time of commencing suit, by placing in the hands of the sheriff of the proper county the complaint and notice, or at any time afterwards, may have the property of the defendant attached in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover.

§ 3. **Affidavit for: Substance of.**—SEC. 147. A writ of attachment shall be issued by the clerk of the court in which the action is brought, whenever the plaintiff, his agent or attorney shall make affidavit that a cause of action exists against such defendant, specifying the amount of such claim over and above all legal set-offs, and the nature thereof; that suit thereon has been commenced, and that, as the affiant verily believes, the defendant—(1) is a foreign corporation; or (2) is a non-resident of this Territory; or (3) is secretly leaving or has left the Territory with the intent to hinder, defraud or delay his creditors; or (4) is about to sell, convey or otherwise dispose of his property with like intent; or (5) is removing or about to remove his property subject to execution, or a material part thereof, out of this Territory, not leaving enough therein to satisfy the claim of the plaintiff; or (6) has concealed or is attempting to conceal himself so that the ordinary process of law cannot be served upon him.

§ 4. **Absence—Absconding—Exception.**—SEC. 148. No attachment for the causes mentioned in the second and third clauses of the preceding section shall issue against any debtor while his family remains settled within the county where he usually resided prior to his absence, if he shall not continue absent from the Territory more than one year after he shall have absented himself, unless an attempt be made to conceal his absence.

§ 5. **Attempt to Conceal Absence, Defined.**—SEC. 149. If the wife or family of the debtor shall refuse or be unable to give an account of the cause of his absence, or the place where he may be found, or shall give a false account of either, such refusal, inability or false account shall be deemed an attempt to conceal his absence.

\* \* \* \* \*

§ 6. **How Writ Shall be Directed, and What Require.**—SEC. 151. The writ shall be directed and delivered to the sheriff. It shall require him to seize and take into his possession, the property of the defendant in his county, not exempt from execution, or sufficient thereof to satisfy the amount of the plaintiff's claim and costs.

§ 7. **In What Case Judgment May be Had.**—SEC. 152. Writs of attachment may be issued to the sheriff of any other county, and several of them may, at the option of the plaintiff, be issued at the same time, or in succession. \* \* \* The plaintiff shall not have judgment in any such action, except in some one of the following cases, viz.: (1) When the defendant shall have been personally served with process; or (2) when property of the defendant shall have been attached in the district or county where the action is brought. \* \* \*

§ 8. **Service on Sunday: When Valid.**—SEC. 153. A writ of attachment may be issued and executed on Sunday, if the plaintiff will show in

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-3, pp. 81, 112.) For repealing clause see No. 118, § 3.



his affidavit that the defendant is about to abscond on that day to the injury of the plaintiff.

§ 9. **How Writ Executed.**—SEC. 154. The sheriff shall proceed, with the assistance of a disinterested and credible householder of the county, to attach the lands and tenements, goods and chattels of the defendants, subject to execution, and shall, with the assistance of such householder, make an inventory and appraisalment thereof, and return the same with the writ.

§ 10. **Force of Writ.**—SEC. 155. A writ of attachment binds the defendant's property from the time it is served.

§ 11. **Personal Property Shall be First Taken.**—SEC. 156. The defendant's personal property shall be first taken under an attachment; if enough thereof is not found to satisfy the plaintiff's claim and costs of the action, then his real estate. \* \* \*

§ 12. **Estate, etc., of Non-Resident Heirs, Attachable.**—SEC. 157. The estate, property and interest descended to non-resident heirs, or devisees, or vested in non-resident executors or administrators of decedents, shall be liable to an attachment for debt or other demands against decedent's estate.

\* \* \* \* \*

§ 13. **Rights of Innocent Persons Protected.**—SEC. 161. An attachment shall only bind the interest of the defendant, subject to the rights existing at the time of the attachment of any other person to the property.

\* \* \* \* \*

§ 14. **Powers of Judge at Chambers.**—SEC. 185. The judge of the district court shall have power to make every order in vacation which, by the provisions of this chapter, may be made by the court in term time.

#### **No. 163.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

#### **CHAPTER XII.**

§ 2. **Writ: When May be Issued.**—SEC. 172. In an action for the recovery of money or liquidated damages the plaintiff, at any time after the commencement of the action and before judgment, may have the property of the defendant attached, in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover.

§ 3. **Affidavit for: Substance of.**—SEC. 173. A writ of attachment shall be issued by the clerk of the court in which the action is pending whenever the plaintiff, or any one on his behalf, shall make and file an affidavit that a cause of action exists against the defendant and the grounds thereof, and the defendant is either—(1) A foreign corporation, or (2) that he is not a resident of this Territory, or has departed therefrom with the intent to delay or defraud his creditors, or to avoid the service of process, or keeps himself concealed therein with the like intent, or (3) that he has removed, or is about to remove, any of his property from this Territory with intent to delay or defraud his creditors; or (4) that he has assigned, secreted or disposed of any of his property, or is about to assign, secrete or dispose of it, with intent to delay or defraud his creditors, or (5) that the defendant has been guilty of a fraud in con-

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blon Sess. 1869, pp. 3, 41) For repealing clause see Nos. 119 and 118, § 3.

tracting the debt or incurring the obligation for which the action is brought.

§ 4. **Bond to be Filed.**—SEC. 174. Upon filing the affidavit with the clerk the plaintiff shall be entitled to have the writ issue as soon thereafter as he shall file with the clerk his bond, \* \* \*

§ 5. **How Writ Shall be Directed, and What Require.**—SEC. 175. The writ shall be directed to the sheriff of any county in which property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which shall be stated in conformity with the complaint, together with costs and expenses. Several writs may be issued at the same time to the sheriffs of different counties.

\* \* \*  
§ 6. **How Writ Executed.**—SEC. 177. The sheriff to whom the writ is directed and delivered shall execute the same without delay, as follows: (1) Real property shall be attached by leaving a copy of the writ with the occupant thereof; or if there be no occupant, by posting a copy in a conspicuous place thereon, and filing a copy, together with a description of the property attached, with the auditor of the county. \* \* \*

\* \* \*  
§ 7. **Return of Writ.**—SEC. 198. The sheriff shall return the writ of attachment with the complaint and notice, if issued at the same time; otherwise within twenty days after its receipt, with a certificate of his proceedings endorsed thereon or attached thereto.

§ 8. **Sale of Attached Property.**—SEC. 194. Whenever property has been taken by an officer under a writ of attachment, in pursuance of the provisions of this act, and it shall be made to appear satisfactorily to the court, or a judge thereof, that the interest of the parties to the action will be subserved by a sale thereof, the court or judge may order such property to be sold, in the same manner as property is sold under an execution, and the proceeds to be deposited in court to abide the judgment in the action. Such order shall be made only upon notice to the adverse party or his attorney, in case such party have been personally served with a notice in the action.

§ 9. **Powers of Judges at Chambers.**—SEC. 195. The judge of the district court shall have power to make every order in vacation which, by the provisions of this chapter, may be made by the court in term time.

\* \* \* \* \*

**No. 164.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS," APPROVED DECEMBER 2, 1869.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \*  
§ 2. **Sections Amended.**—SEC. 2.<sup>2</sup> Sections \* \* \* 172, 173, 198 \* \* \* of the said act are hereby amended so as to read as follows, viz.: \* \* \*

§ 3. **Writ: When May be Issued.**—"SEC. 172. The plaintiff at the time of issuing the summons, or at any time afterward, may have the property of the defendant attached as security for the satisfaction of any judgment that may be recovered unless the defendant give security to pay such

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 3.) For repealing clause see No. 120, § 3.

<sup>2</sup> Should be "Sec. 3."

judgment as hereinafter provided in the following cases: (1) In an action upon a contract, expressed or implied, for the direct payment of money which is not secured by a mortgage, lien or pledge upon real or personal property, or if so secured, that such security has been rendered nugatory by the act of the defendant. (2) In an action upon a contract, express or implied, against a defendant not residing in this Territory."

§ 4. **Affidavit For: What Shall State.**—"SEC. 173. The clerk of the court shall issue the writ of attachment upon receiving an affidavit by or on behalf of the plaintiff, which shall be filed, showing—*First*, That the defendant is indebted to the plaintiff (specifying the amount of such indebtedness over and above all legal set-offs or counter claims) upon a contract, express or implied, for the direct payment of money and that the payment of the same has not been secured by any mortgage, lien or pledge upon any real or personal property. *Second*, That the defendant is indebted to the plaintiff (specifying the amount of such indebtedness, as near as may be, over and above all legal set-offs or counter claims) and that the affiant verily believes that the defendant is either—(1) A foreign corporation; or (2) that he is a non-resident of the Territory or has departed therefrom with intent to delay or defraud his creditors, or to avoid the services of process, or keep himself concealed therein with like intent; or (3) that he has removed or is about to remove any of his property from this Territory with intent to delay or defraud his creditors; or (4) that he has assigned, secreted or disposed of any of his property, or is about so to do, with intent to delay or defraud his creditors; or (5) that the defendant has been guilty of a fraud in contracting a debt or incurring the obligation for which the action is brought, stating the facts constituting the alleged frauds. (6) That the attachment is not sought and the action is not prosecuted to hinder, delay or defraud any creditor or creditors of the defendant."

§ 5. **Return of Writ.**—"SEC. 193. The sheriff shall return the writ of attachment with the summons if issued at the same time, otherwise within twenty days after its receipt, with a certificate of his proceedings indorsed thereon or attached thereto."

\* \* \* \* \*

#### No. 165.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

#### CHAPTER XII.

§ 2. **Writ: When May be Issued.**—SEC. 171. The plaintiff at the time of issuing the summons, or at any time afterward, and before judgment, may have the property of the defendant attached in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover.

§ 3. **Affidavit For: What Shall State.**—SEC. 172. A writ of attachment shall be issued by the clerk of the court in which the action is pending whenever the plaintiff, or any one on his behalf, shall make and file an affidavit that a cause of action exists against the defendant, and the grounds thereof, and that the defendant is either—(1) A foreign corporation; or (2) that he is not a resident of this Territory, or has departed therefrom with intent to delay or defraud his creditors, or to avoid the service of process, or keeps himself concealed therein with the like intent; or (3) that he has removed or is about to remove any of his property

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 43.) For repealing clause see No. 121, § 3.

from this Territory with intent to delay or defraud his creditors; or (4) that he has assigned, secreted or disposed of any of his property, or is about to assign, secrete or dispose of it, with intent to delay or defraud his creditors; or (5) that the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought.

§ 4. **Bond to be Filed.**—SEC. 173. Upon filing the affidavit with the clerk, the plaintiff shall be entitled to have the writ issue as soon thereafter as he shall file with the clerk his bond, \* \* \*

§ 5. **How Writ Shall be Directed, and What Require.**—SEC. 174. The writ shall be directed to the sheriff of any county in which property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which shall be stated in conformity with the complaint, together with costs and expenses. Several writs may be issued at the same time to the sheriffs of different counties.

\* \* \*  
§ 6. **How Writ Executed.**—SEC. 176. The sheriff to whom the writ is directed and delivered shall execute the same without delay, as follows: (1) Real property shall be attached by leaving a copy of the writ with the occupant thereof; or, if there be no occupant, by posting a copy in a conspicuous place thereon, and filing a copy, together with a description of the property attached, with the auditor of the county. \* \* \*

\* \* \*  
§ 7. **Judgment: How Satisfied.**—SEC. 183. If judgment be recovered by the plaintiff, the sheriff shall satisfy the same out of the property attached by him which has not been delivered to the defendant or a claimant as hereinbefore provided, or subjected to execution on another judgment recovered previous to the issuing of the attachment, if it be sufficient for that purpose: (1) By paying to the plaintiff the proceeds of all sales of perishable property sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy the judgment. (2) If any balance remain due, and an execution shall have been issued on the judgment, he shall sell under the execution so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose, remain in his hands. Notice of the sales shall be given, and the sales conducted as in other cases of sales on execution.

\* \* \*  
§ 8. **Judgment: Satisfaction for Deficit.**—SEC. 185. If the execution be returned unsatisfied in whole or in part the plaintiff may proceed as in other cases upon the return of an execution.

\* \* \*  
§ 9. **Return of Writ.**—SEC. 192. The sheriff shall return the writ of attachment with the summons if issued at the same time; otherwise within twenty days after its receipt, with a certificate of his proceedings endorsed thereon or attached thereto.

§ 10. **Sale of Attached Property.**—SEC. 193. Whenever property has been taken by an officer under a writ of attachment in pursuance of the provisions of this act, and it shall be made to appear satisfactorily to the court or a judge thereof that the interest of the parties to the action will be subserved by a sale thereof, the court or judge may order such property to be sold in the same manner as property is sold under an execution and the proceeds to be deposited in court to abide the judgment in the action. Such order shall be made only upon notice to the adverse party or his attorney, in case such party have been personally served with a notice in the action.

§ 11. **Powers of Judges at Chambers.**—SEC. 194. The judge of the district court shall have power to make every order in vacation which, by the provisions of this chapter, may be made by the court in term time.

\* \* \* \* \*

**No. 166.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XII.

§ 2. **Writ: When May be Issued.**—SEC. 174. The plaintiff at the time of issuing the summons, or at any time afterward, and before judgment, may have the property of the defendant attached in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover

§ 3. **Affidavit For: What Shall State.**—SEC. 175. A writ of attachment shall be issued by the clerk of the court in which the action is pending, whenever the plaintiff, or any one on his behalf, shall make and file an affidavit that a cause of action exists against the defendant, and the grounds thereof, and that the defendant is either—(1) A foreign corporation; or (2) that he is not a resident of this Territory, or has departed therefrom with intent to delay or defraud his creditors, or to avoid the service of process, or keeps himself concealed therein with the like intent; or (3) that he has removed or is about to remove any of his property from this Territory with intent to delay or defraud his creditors, or (4) that he has assigned, secreted or disposed of any of his property, or is about to assign, secrete or dispose of it, with intent to delay or defraud his creditors; or (5) that the defendant has been guilty of a fraud in contracting a debt or incurring the obligation for which the action is brought

§ 4. **Bond to be Filed.**—SEC. 176. Upon filing the affidavit with the clerk, the plaintiff shall be entitled to have the writ issue as soon thereafter as he shall file with the clerk his bond, \* \* \*

§ 5. **How Writ Shall be Directed, and What Require.**—SEC. 177. The writ shall be directed to the sheriff of any county in which property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which shall be stated in conformity with the complaint together with costs and expenses. Several writs may be issued at the same time to the sheriffs of different counties.

\* \* \* \* \*

§ 6. **How Writ Executed.**—SEC. 179. The sheriff to whom the writ is directed and delivered shall execute the same without delay as follows: (1) Real property shall be attached by leaving a copy of the writ with the occupant thereof, or, if there be no occupant, by posting a copy in a conspicuous place thereon, and filing a copy, together with a description of the property attached, with the auditor of the county. \* \* \*

\* \* \* \* \*

§ 7. **Judgment: How Satisfied.**—SEC. 185. If judgment be recovered by the plaintiff, the sheriff shall satisfy the same out of the property attached by him which has not been delivered to the defendant or a claimant, as hereinbefore provided, or subjected to execution on another judgment recovered previous to the issuing of the attachment, if it be

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien Sess. 1877, pp. 3, 35.) For date when in effect and repealing clause see No. 122, §§ 3, 4.



sufficient for that purpose. (1) By paying to the plaintiff the proceeds of all sales of perishable property sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy the judgment. (2) If any balance remain due, and an execution shall have been issued on the judgment, he shall sell under the execution so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose remain in his hands. Notice of the sale shall be given, and the sales conducted as in other cases of sales on execution.

\* \* \* \* \*

§ 8. **Judgment: Satisfaction for Deficit.**—SEC. 187. If the execution be returned unsatisfied in whole or in part, the plaintiff may proceed as in other cases upon the return of an execution.

\* \* \* \* \*

§ 9. **Return of Writ.**—SEC. 194. The sheriff shall return the writ of attachment with the summons, if issued at the same time; otherwise within twenty days after its receipt, with a certificate of his proceedings indorsed thereon or attached thereto.

§ 10. **Sale of Attached Property.**—SEC. 195. Whenever property has been taken by an officer, under a writ of attachment, in pursuance of the provisions of this act, and it shall be made to appear satisfactorily to the court or a judge thereof, that the interest of the parties to the action will be subserved by a sale thereof, the court or judge may order such property to be sold in the same manner as property is sold under an execution, and the proceeds to be deposited in court, to abide the judgment in the action. Such order shall be made only upon notice to the adverse party or his attorney, in case such party have been personally served with a notice in the action.

§ 11. **Power of Judge at Chambers.**—SEC. 196. The judge of the district court shall have power to make every order in vacation which by the provisions of this chapter may be made by the court in term time.

\* \* \* \* \*

**No. 167.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS," APPROVED NOV. 8, 1877.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Oct. 31, 1881. (See Eighth Bien. Sess. 1881, p. 3.) In effect from date. This act appears *verbatim* as secs. 174, 175, 177, 179, of the Code 1881. (See No. 168, *infra*.) For the act referred to in title see No. 166, *supra*.

**No. 168.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XII.

§ 2. **Writ: When May be Issued.**—SEC. 174. The plaintiff, at the time of issuing the summons or at any time afterward, before judgment, may have the property of the defendant attached in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as he may recover.

§ 3. **Affidavit for: What Shall State.**—SEC. 175. The writ of attachment shall be issued by the clerk of the court in which the action is pend-

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 33, 61.) For repealing clause and date when in effect, etc., see Nos. 338, 339, 340.

ing; but before any such writ shall issue the plaintiff, or some one in his behalf, shall make and file with such clerk an affidavit, stating that a cause of action exists against the defendant in favor of the plaintiff, and the nature thereof, and that the defendant is indebted to the plaintiff thereon, specifying the amount of said indebtedness, as near as may be, over and above all set-offs and counter-claims, and that the same is not secured by any mortgage or lien upon real or personal property, or any pledge of personal property, or if originally so secured, such security has, without any act of the plaintiff's, become inadequate.

**§ 4. Bond to be Filed.**—SEC. 176. Before the writ of attachment shall issue, the plaintiff, or some one in his behalf, shall execute and file with the clerk a bond or undertaking, \* \* \*

**§ 5. How Writ Shall be Directed, and What Require.**—SEC. 177. The writ shall be directed to the sheriff of any county in which property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand, the amount of which shall be stated in conformity with the complaint, together with costs and expenses. Several writs may be issued at the same time to the sheriffs of different counties. After the return of any writ of attachment by the sheriff executing the same, the plaintiff, notwithstanding such return, may have other writs of attachment issue in the same action, without further proceedings, the same to be executed in the same manner as original writs.

\* \* \* \* \*

**§ 6. How Writ Executed.**—SEC. 179. The sheriff to whom the writ is directed and delivered shall execute the same without delay, as follows: (1) Real property shall be attached by filing a copy of the writ, together with a description of the property attached, with the county auditor of the county in which the attached real estate is situated. \* \* \*

\* \* \* \* \*

**§ 7. Judgment: How Satisfied.**—SEC. 185. If judgment be recovered by the plaintiff, the sheriff shall satisfy the same out of the property attached by him which has not been delivered to the defendant or claimant, as hereinbefore provided, or subjected to execution on another judgment recovered previous to the issuing of the attachment, if it be sufficient for that purpose—(1) By paying to the plaintiff the proceeds of all sales of perishable property sold by him, or if any debts or credits collected by him, or so much as shall be necessary to satisfy the judgment. (2) If any balance remain due, and an execution shall have been issued on the judgment, he shall sell under the execution so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose remain in his hands. Notice of the sales shall be given, and the sales conducted as in other cases of sales on execution.

\* \* \* \* \*

**§ 8. Judgment: Satisfaction for Deficit.**—SEC. 187. If the execution be returned unsatisfied, in whole or in part, the plaintiff may proceed as in other cases upon the return of an execution.

\* \* \* \* \*

**§ 9. Return of Writ.**—SEC. 190. The sheriff shall return the writ of attachment with the summons, if issued at the same time; otherwise within twenty days after its receipt, with a certificate of his proceedings endorsed thereon, or attached thereto.

**§ 10. Sale of Attached Property.**—SEC. 191. Whenever property has been taken by an officer, under a writ of attachment, in pursuance of the provisions of this chapter, and it shall be made to appear satisfactorily to the court, or a judge thereof, that the interests of the parties to the action will be subserved by a sale thereof, the court or judge may order such



property to be sold in the same manner as property is sold under an execution, and the proceeds to be deposited in court, to abide the judgment in the action. Such order shall be made only upon notice to the adverse party or his attorney, in case such party have been personally served with a notice in the action.

§ 11. **Power of Judges at Chambers.**—SEC. 192. The judge of the district court shall have power to make every order in vacation which by the provisions of this chapter may be made by the court in term time.

\* \* \* \* \*

**No. 169.—AN ACT IN RELATION TO ATTACHMENTS AND GARNISHMENTS.<sup>1</sup>**

§ 1. **Writ: When May be Issued.**—*Be it enacted, etc.* SECTION 1. The plaintiff at the time of commencing an action, or at any time afterward before judgment, may have the property of the defendant, or that of any one or more of several defendants, attached in the manner hereinafter prescribed as security for the satisfaction of such judgment as he may recover.

§ 2. **Affidavit for: What Shall State.**—SEC. 2. The writ of attachment shall be issued by the clerk of the court in which the action is pending; but before any such writ of attachment shall issue the plaintiff, or some one in his behalf, shall make and file with such clerk an affidavit showing that the defendant is indebted to the plaintiff (specifying the amount of such indebtedness over and above all just credits and off-sets), and that the attachment is not sought and the action is not prosecuted to hinder, delay or defraud any creditor of the defendant; and either—(1) That the defendant is a foreign corporation, or (2) that the defendant is not a resident of this Territory; or (3) that the defendant conceals himself so that the ordinary process of law cannot be served upon him; or (4) that the defendant has absconded or absented himself from his usual place of abode in this Territory, so that the ordinary process of law cannot be served upon him; or (5) that the defendant has removed, or is about to remove, any of his property from this Territory with intent to delay or defraud his creditors; or (6) that the defendant has assigned, secreted or disposed of, or is about to assign, secrete or dispose of, any of his property with intent to delay or defraud his creditors; or (7) that the defendant is about to convert his property, or a part thereof, into money for the purpose of placing it beyond the reach of his creditors; or (8) that the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought; or (9) that the damages for which the action is brought are for injuries arising from the commission of some felony or for the seduction of some female.

\* \* \* \* \*

§ 3. **In Case Debt not Due—Affidavit for: What Shall State.**—SEC. 3. An action may be commenced and the property of a debtor may be attached previous to the time when the debt becomes due, when nothing but time is wanting to fix an absolute indebtedness, and when the affidavit, in addition to that fact, states—(1) That the defendant is about to dispose of his property with intent to defraud his creditors; or (2) that the defendant is about to remove from the Territory and refuses to make any arrangements for securing the payment of the debt when it falls due, and which contemplated removal was not known to the plaintiff at the time the debt was contracted; or (3) that the defendant has disposed of his property in whole or in part with intent to defraud his creditors; or (4) that the debt was incurred for property obtained under false pretenses.

\* \* \* \* \*

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-6, p. 39.) In effect from date.

§ 4. **Bond to be Filed.**—SEC. 6. Before the writ of attachment shall issue, the plaintiff, or some one in his behalf, shall execute and file with the clerk a bond or undertaking. \* \* \*

§ 5. **How Writ Shall be Directed, and What Require.**—SEC. 9. The writ of attachment shall be directed to the sheriff of any county in which property of the defendant may be, and shall require him to attach and safely keep the property of such defendant within his county to the requisite amount, which shall be stated in conformity with the affidavit. The sheriff shall in all cases attach the amount of property directed, if sufficient not exempt from execution be found in his county, giving that in which the defendant has a legal and unquestionable title a preference over that in which his title is doubtful or only equitable, and he shall, as nearly as the circumstances of the case will permit, levy upon property fifty per cent. greater in valuation than the amount which plaintiff in his affidavit claims to be due. When property is seized on attachment the court may allow to the officer having charge thereof such compensation for his trouble and expenses in keeping the same as shall be reasonable and just.

§ 6. **Writ May be Issued to Different Counties, etc.**—SEC. 10. Writs of attachment may be issued from the district courts to different counties, and several may, at the option of the plaintiff, be issued at the same time, or in succession and subsequently until sufficient property has been attached; but only those executed shall be taxed in the costs unless otherwise ordered by the court, and if more property is attached in the aggregate than the plaintiff is entitled to have held, the surplus must be abandoned and the plaintiff pay all costs incurred in relation to such surplus. After the first writ shall have issued, it shall not be necessary for the plaintiff to file any further affidavit or bond, but he shall be entitled to as many writs as may be necessary to secure the amount claimed.

§ 7. **Order in Which Writs Executed.**—SEC. 11. Where there are several attachments against the same defendant, they shall be executed in the order in which they were received by the sheriff. \* \* \*

§ 8. **How Writ Executed.**—SEC. 13. The sheriff to whom the writ is directed and delivered must execute the same without delay, as follows: (1) Real property shall be attached by filing a copy of the writ, together with a description of the property attached, with the county auditor of the county in which the attached real estate is situated. \* \* \*

§ 9. **Sale of Attached Property.**—SEC. 16. \* \* \* Whenever it shall be made to appear satisfactorily to the court or judge that the interest of the parties to the action will be subserved by a sale of any attached property, the court or judge may order such property to be sold in the same manner as like property is sold under execution. Such order shall be made only upon notice to the adverse party or his attorney, in case such party shall have been personally served with a summons in the action. \* \* \*

§ 10. **Judgment: How Satisfied.**—SEC. 25. If judgment be recovered by the plaintiff the sheriff shall satisfy the same out of the property attached by him which has not been delivered to the defendant or claimant, as in this act provided, or subjected to execution on another judgment recovered previous to the issuing of the attachment, if it be sufficient for that purpose—(1) By applying on the execution issued on said judgment the proceeds of all sales of perishable or other property sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy the judgment. (2) If any balance remain due he shall sell under the execution so much of the property, real or personal, as may be

necessary to satisfy the balance, if enough for that purpose remain in his hands. Notice of the sale shall be given and the sale conducted as in other cases of sales on execution.

§ 11. **Judgment: Satisfaction of Deficit.**—SEC. 26. If after selling all the property attached by him remaining in his hands, and applying the proceeds, together with the proceeds of any debts or credits collected by him, deducting his fees, to the payment of the judgment, any balance shall remain due, the sheriff shall proceed to collect such balance as upon an execution in other cases. \* \* \*

§ 12. **Judgment: Satisfaction for Deficit.**—SEC. 27. If the execution be returned unsatisfied in whole or in part the plaintiff may proceed as in other cases upon the return of an execution.

\* \* \*  
§ 13. **Return of Writ—How Attachment Released.**—SEC. 34. The sheriff must return the writ of attachment with the summons if issued at the same time, otherwise within twenty days after its receipt, with a certificate of his proceedings endorsed thereon or attached thereto, and whenever an order has been made discharging or releasing an attachment upon real property a certified copy of such order may be filed in the offices of the county auditors in which the notices of attachment have been filed, and be indexed in like manner.

§ 14. **How This Act Construed.**—SEC. 35. This act shall be liberally construed, and the plaintiff, at any time when objection is made thereto, shall be permitted to amend any defect in the complaint, affidavit, bond, writ or other proceeding; and no attachment shall be quashed or dismissed, or the property attached released, if the defect in any of the proceedings has been or can be amended so as to show that a legal cause for the attachment existed at the time it was issued, and the court shall give the plaintiff a reasonable time to perfect such defective proceedings. The causes for attachment shall not be stated in the alternative.

§ 15. **Power of Judge at Chambers.**—SEC. 36. The judge of any district court shall have power to make every order in vacation which, by the provisions of this act, may be made by the court in term time.

§ 16. **"Sheriff" Defined.**—SEC. 37. The word "sheriff" as used in this act is meant to apply to constables, when the proceedings are in a justice's court, and when the proceedings are in a justice's court, the justice is to be regarded as the clerk of the court for all purposes herein contemplated: *Provided*, That nothing contained in this act shall be construed to confer upon a justice of the peace power to issue a writ of attachment to be served out of the county in which such justice shall have his office, or to confer upon a sheriff, constable or other officer, power or authority to serve a writ of attachment issued out of justice's court beyond the limits of the county in which such justice shall have his office, \* \* \* *And provided further*, That nothing contained in this act shall be construed or held to authorize the attachment of real estate, or of any interest therein, under a writ of attachment issued out of any justice's court.

§ 17. **Repealing Clause.**—SEC. 38. That chapter twelve<sup>2</sup> of the Code of Washington Territory, \* \* \* and all other laws heretofore enacted upon any subject-matter contained in this act, be and the same are hereby repealed: *Provided*, That rights acquired in actions now pending under existing laws shall not be affected by anything herein contained.

\* \* \*  
<sup>2</sup> See No. 168, *supra*.

## CHAPTER VI.—JUDGMENTS.

## 1. JUDGMENTS IN GENERAL

**No. 170.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

## CHAPTER XXI.

§ 2. **Judgment Defined.**—SEC. 220. A judgment is the final determination of the rights of the parties in<sup>2</sup> the action.

§ 3. **Force and Effect of Judgment.**—SEC. 221. Judgment may be given for one or more of several plaintiffs, and for or against one or more of several defendants; and it may, when the justice of the case requires it, determine the ultimate rights of the parties on each side as between themselves

§ 4. **Judgment in Action Against Several Defendants.**—SEC. 222. In an action against several defendants the court may, in its discretion, render<sup>3</sup> judgment against one or more of them whenever a several judgment is proper, leaving the action to proceed against the others.

<sup>1</sup>Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 170.) For repealing clause see No. 115, § 2.

<sup>2</sup>See Nos. 171, 172, *infra*.

<sup>3</sup>See No. 172, *infra*.

**No. 171.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS<sup>1</sup>**

<sup>1</sup>Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 45, chap. 19, secs. 212 to 214 inclusive.) This No. is *verbatim* as No. 170, *supra*, except § 2 of said No. at <sup>2</sup> instead of the word "in" read "to." For repealing clause see No. 117, § 2.

**No. 172.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

<sup>1</sup>Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 132, chap. 21, secs. 247 to 249 inclusive.) This No. is *verbatim* as No. 170, *supra*, except § 2 of said No. at <sup>2</sup> instead of the word "in" read "to," and § 4 at <sup>3</sup> insert "the." In effect from date. For repealing clause see No. 118, § 8.

**No. 173.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

## CHAPTER XXII.

§ 2. **Judgment Defined.**—SEC. 285. A judgment is the final determination of the rights of the parties in the action.

§ 3. **Force and Effect of Judgment.**—SEC. 286. Judgment may be given for or against one or more of several plaintiffs and for or against

<sup>1</sup>Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 8, 69.) For repealing clause see Nos. 119 and 118, § 8.

one or more of several defendants; and it may, when the justice of the case requires it, determine the ultimate rights of the parties on each side as between themselves.

§ 4. **Judgment in Action Against Several Defendants.**—SEC 287. In an action against several defendants the court may, in its discretion, render judgment against one or more of them whenever a several judgment is proper, leaving the action to proceed against the others

**No. 174.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 72, chap. 22.) This No. is *verbatim* as No. 173, *supra*. For repealing clause see No. 121, §3.

**No. 175.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 57, chap. 22.) This No. is *verbatim* as No. 173, *supra*. For repealing clause and date when in effect see No. 122, §§3, 4.

**No. 176.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35 and 79, chap. 22.) This No. is *verbatim* as No. 173, *supra*. For date when in effect see Nos. 338, 339, 340.

**2. JUDGMENT BY DISMISSAL, OR NON-SUIT.**

**No. 177.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§1. SECTION 1. *Be it enacted, etc.*

**XXI.**

§ 2. **In What Case, May be Entered.**—SEC 228. An action may be dismissed, or a judgment of non-suit entered, in the following cases: (1) By the plaintiff himself at any time, either in term time or in vacation, before the jury retire to consider of their verdict, unless set-off be interposed as a defense, or unless the defendant sets up a counter-claim to the specific property or thing which is the subject-matter of the action. (2) By either party, upon the written consent of the other. (3) By the court, when the plaintiff fails to appear on the trial, and the defendant appears and asks for the dismissal. (4) By the court, when upon the trial and before the final submission of the case the plaintiff abandons it. (5) By the court, on the refusal or neglect of the plaintiff to make the necessary parties after having been ordered by the court. (6) By the court, on the application of some of the defendants, where there are others whom the plaintiff fails to prosecute with diligence. (7) By the court, for disobedience by the plaintiff of an order concerning the proceedings in the action. (8) By the court, upon notice of the defendant when upon trial the plaintiff fails to prove a sufficient cause for the jury.

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 170, chap. 21.) For repealing clause see No. 115, §2.



§ 3. **In Other Cases.**—SEC. 224. In every case, other than those mentioned in the last section, the judgment shall be rendered on the merits.

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**No. 178.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 45, chap. 19, secs. 215, 216.) This number is verbatim as No. 177, *supra*. For repealing clause see No. 117, § 2.

**No. 179.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63 pp. 81, 132, chap. 21, §§ 250, 251.) This No. is verbatim as No. 177, *supra*. In effect from date. For repealing clause see No. 118, § 3.

**No. 180.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXIII.

§ 2. **In What Case, May be Entered.**—SEC. 288. An action may be dismissed, or a judgment of non-suit entered, in the following cases: (1) By the plaintiff himself at any time, either in term time or in vacation, before the jury retires to consider of their verdict, unless set-off be interposed as a defense, or unless the defendant sets up a counter-claim to the specific property or thing which is the subject-matter of the action. (2) By either party upon the written consent of the other. (3) By the court, when the plaintiff fails to appear on trial and the defendant appears and asks for a dismissal. (4) By the court, when upon the trial and before the final submission of the case the plaintiff abandons it. (5) By the court, on the refusal or neglect of the plaintiff to make the necessary parties after having been ordered by the court. (6) By the court, on the application of some of the defendants, where there are others whom the plaintiff fails to prosecute with diligence. (7) By the court, for disobedience of the plaintiff to an order concerning the proceedings in the action. (8) By the court, upon motion of the defendant, when upon the trial the plaintiff fails to prove a sufficient cause for the jury.

§ 3. **In Other Cases.**—SEC. 289. In every case other than those mentioned in the last section, the judgment shall be rendered on the merits.

§ 4. **Dismissal Not a Bar.**—SEC. 290. When a judgment of non-suit is given, the action is dismissed; but such judgment shall not have the effect to bar another action for the same cause.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 69.) For repealing clause see Nos. 119 and 118, § 3.

**No. 181.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 72, chap. 21.) This No. is verbatim as No. 180, *supra*. For repealing clause see No. 121, § 3.

**No. 182.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 57, chap. 23.) This No. is *verbatim* as No. 180, *supra*. For repealing clause and date when in effect see No. 122, §§ 3, 4.

**No. 183.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 79, chap. 23.) This No. is *verbatim* as No. 140, *supra*. For repealing clause, date when in effect, etc., see Nos. 338, 339, 340.

**3. JUDGMENT BY DEFAULT.**

**No. 184.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XXII.

§ 2. **In What Case, May be Had.**—SEC. 225. Judgment may be had on proof of the service of the summons and complaint, if the defendant fail to answer the complaint, as follows: (1) In an action arising upon a contract for the recovery of money only, if no answer be filed with the clerk of the court within the time prescribed by law, or such further time as may have been granted, the court, at its next term, upon the application of the plaintiff, may direct the clerk to enter the default of the defendant, and immediately thereafter enter judgment for the amount mentioned in the summons, including the costs, against the defendant or against one or more of several defendants, in the cases provided for in section 43<sup>2</sup> of this act. (2) In other actions, if no answer be filed with the clerk of the court within the time prescribed by law, or such further time as may have been granted, the court shall, in like manner, direct the clerk to enter the default of the defendant, and thereafter the plaintiff may apply at that or any subsequent term of the court for the relief demanded in the complaint. \* \* \* (3) In actions where the service of the summons shall be by publication, the plaintiff may in like manner apply for judgment, and the court \* \* \* may render judgment for the amount which he is entitled to recover. \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 171, chap. 22.) For repealing clause see No. 115, § 2.

<sup>2</sup> Sec. 43 relates to practice, and does not appear in this volume.

**No. 185.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XX.

§ 2. **In What Case, May be Had.**—SEC. 217. Judgment may be had on proof of the service of the complaint and notice, if the defendant fail

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 46.) For repealing clause see No. 117, § 2.



to answer the complaint, as follows: (1) In an action arising upon a contract for the recovery of money only, if no answer be filed with the clerk of the court within the time prescribed by law, or such further time as may have been granted, the court, [upon the application of the plaintiff, may<sup>2</sup>] direct the clerk to enter the default of the defendant, and immediately thereafter enter judgment for the amount mentioned in the complaint, including the costs, against the defendant, or against one or more of \* several defendants, in the cases provided for in section twenty-five<sup>3</sup> of this act. (2) In other actions, if no answer be filed with the clerk of the court within the time prescribed by law, or such further time as may have been granted, the court shall, in like manner, direct the clerk to enter the default of the defendant; and thereafter the plaintiff may apply at that or any subsequent term of the court for the relief demanded in the complaint \* \* \*. (3) In actions when the service shall be by publication the plaintiff may in like manner apply for judgment, and the court shall thereupon require proof to be made of the demand mentioned in the complaint, and, if the defendant be not a resident of the Territory, shall require the plaintiff or his agent to be examined, on oath, respecting any payments that have been made to the plaintiff, or to any one for his use, on account of such demand, and may render judgment for the amount which he is entitled to recover. Before rendering judgment the court may, in its discretion, require the plaintiff to cause to be filed satisfactory security to abide the order of the court touching the restitution of any property collected or received under the judgment in case the defendant or his representatives shall be admitted to defend the action and succeed in the defense. (4) The court may, in its discretion, before final judgment set aside any default upon affidavit showing good and sufficient cause and upon such terms as may be deemed reasonable.

\* \* \* \* \*

<sup>2</sup> See Nos. 184, 187, *infra*.

<sup>3</sup> *Ibid.* (See also No. 147, § 8, *supra*.)

**No. 186.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 133, chap. 22, sec. 252.) This No. is *verbatim* as No. 185, *supra*, except at <sup>2</sup> of said No. instead of that part included in [ ] read, "shall, in like manner," and at <sup>3</sup> insert "the," and at <sup>4</sup> for "section twenty-five," read "section forty-six." (See No. 148, § 7.) In effect from date. For repealing clause see No. 118, § 3.

**No. 187.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 70, chap. 24, sec. 291.) This No. is *verbatim* as No. 185, *supra*, except at <sup>2</sup> of said No. instead of that part included in [ ] read, "shall, in like manner," and at <sup>3</sup> insert "the," and at <sup>4</sup> instead of "section twenty-five," read "section sixty-seven." (See No. 149, § 9.) For repealing clause see No. 119 and 118, § 3.

**No. 188.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS," APPROVED DECEMBER 2, 1869.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **In What Case, May be Had.**—SEC. 2.<sup>2</sup> Sections \* \* \* 291 of the said act are hereby amended so as to read as follows, viz \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 3.) For repealing clause see No. 120, § 3.

<sup>2</sup> Should be "Sec. 3."

"Sec. 291. Judgment may be had if the defendant fail to answer to the complaint, as follows: (1) In an action arising upon contract for the recovery of money or damage only, if no answer has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted by the court or judge, the clerk, upon the application of the plaintiff, shall enter the default of the defendant and immediately thereafter enter judgment for the amount specified in the summons, including the costs, against the defendant, or against one or more of several defendants, in the cases provided for in section 67.<sup>3</sup> (2) In other actions, if no answer has been filed with the clerk of the court within the time specified in the summons, or such further time as may have been granted, the clerk shall enter the default of the defendant, and thereafter the plaintiff may apply at the first or any subsequent term of the court for the relief demanded in the complaint. \* \* \* (3) In actions where the service of the summons was by publication, the plaintiff, upon the expiration of the time designated in the order of publication, may, upon proof of the publication and that no answer has been filed, apply for judgment, and the court \* \* \* may render judgment for the amount which he is entitled to recover. In all cases the person recovering judgment in the district court shall have the right to an execution for the satisfaction thereof as soon as the same is rendered." \* \* \*

<sup>3</sup> See No. 150, § 9.

**No. 189.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 73, chap. 24, sec. 289.) This No. is *verbatim* as No. 188 except at \* of said No. instead of "section 67," read "section sixty-six." (See No. 151, § 9.) For repealing clause see No. 121, § 3.

**No. 190.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XXIV.

§ 2. **In What Case, May be Had** — SEC. 293. Judgment may be had if the defendant fail to answer to the complaint, as follows: (1) In any action arising on contract for the recovery of money only, the plaintiff may file with the clerk proof of personal service of the summons and complaint on one or more of the defendants. The court shall thereupon enter judgment for the amount claimed against the defendant or defendants or against one or more of the several defendants in the cases provided for in section sixty-nine. \* \* \* (2) In other actions the plaintiff may, upon the like proof, apply to the court after the expiration of the time for answering, for the relief demanded in the complaint. \* \* \* (3) In action where the service of the summons was by publication, the plaintiff, upon the expiration of the time for answering, may upon proof of service by publication apply for judgment; and the court \* \* \* may render judgment for the amount which he is entitled to recover or for such other relief as he may be entitled to.

<sup>1</sup> Approved Nov. 28, 1877. (See Sixth Bien. Sess. 1877, p. 59.) For repealing clause and for date when in effect, see No. 122, §§ 3, 4.

**No. 191.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 80, chap. 24, sec. 289.) This No. is *verbatim* as No. 190 except at 2 of said No. instead of "section sixty-nine," read "section sixty-eight." (See No. 153, § 10.) For repealing clause, date when in effect, etc., see Nos. 338, 339, 340.

**4. JUDGMENT BY CONFESSION.**

**No. 192.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXIII.

§ 2. **Manner of Confession.**—SEC. 226. Any defendant may appear in court, in person or by attorney, duly authorized in writing, and confess judgment for any amount due or owing by him, and such confession shall be a waiver of all errors for want of service or complaint. When made upon a written power of attorney, the execution thereof shall be proved to the satisfaction of the court, and the power of attorney filed with the clerk.

\* \* \* \* \*

§ 3. **Effect of.**—SEC. 228. Judgments by confession shall have the effect of ordinary judgments from the day on which they are rendered.

\* \* \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 123, 172.) For repealing clause see No. 115, § 2.

**No. 193.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXI.

§ 2. **Manner of Confession—Entry of Judgment, etc.**—SEC. 218. It shall be the duty of any clerk of a district court in this Territory, on the application of any person being the original holder, or assignee of such holder, of a note, bond or other instrument of writing, in which judgment is confessed, or containing a warrant to any attorney or other person to confess a judgment, to enter judgment against the person or persons who executed the same for the amount which from the face of said instrument may appear to be due, without the agency of an attorney, or complaint or notice filed; said judgment to bear the rate of interest specified in said note, bond or instrument of writing, and if no rate of interest is specified therein, the legal rate of interest,<sup>2</sup> with such stay of execution as may be mentioned therein; \* \* \* Said clerk shall particularly enter on his docket the date and tenor of the instrument of writing on which said judgment is founded, which shall have the same force and effect as if complaint and notice had been duly served and filed, or judgment obtained in open court, and in term time; \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 47.) For repealing clause see No. 117, § 3.

<sup>2</sup> Ten per cent. (See "An act to regulate the interest of money." First Reg. Sess. 1854, p. 380.)

§ 3. **Effect of Judgment: Transcript.**—SEC. 219. Judgments confessed in accordance with the preceding section shall be similar in all respects to other judgments, and shall take effect and be a lien from the day upon which they are rendered: *Provided*, That a certified transcript thereof shall be filed in the office of the auditor of the county in which property may be situated, before such judgment shall be a lien thereon.

**No. 194.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 41, 134, secs. 213, 254.) This No. is verbatim as No. 193, *supra*. In effect from date. For repealing clause see No. 118, § 3.

**No. 195.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXV.

§ 2. **When Judgment, May be Entered.**—SEC. 293. On the confession of the defendant, with the assent of the plaintiff or his attorney, judgment may be given against the defendant in any action before or after answer, for any amount or relief not exceeding or different from that demanded in the complaint.

§ 3. **In Case of Territory, etc.: Who May Confess.**—SEC. 294. When the action is against the Territory, a county or other public corporation therein, or a private corporation, or a minor, the confession shall be made by the person who at the time sustains the relation to such Territory, corporation, county or minor, as would authorize the service of a notice upon him; or in case of a minor, if a guardian for the action has been appointed, then by such guardian. In all other cases the confession shall be made by the defendant in person.

§ 4. **When, Against Joint Defendants.**—SEC. 295. When the action is upon a contract and against one or more defendants jointly liable, judgment may be given on the confession of one or more defendants against all the defendants thus jointly liable, whether such defendants have been served or not, to be enforced only against their joint property and against the joint and separate property of the defendant making the confession.

§ 5. **How Confession Made.**—SEC. 296. The confession and assent thereto shall be in writing and subscribed by the parties making the same, and acknowledged by each before some officer authorized to take acknowledgments of deeds; but such acknowledgment is not required when the parties shall appear in court when the judgment is given, or before the clerk in vacation by whom the judgment is entered. In all cases the confession and assent thereto and the acknowledgment, if any, shall be filed with the clerk.

§ 6. **No Action Necessary.**—SEC. 297. A judgment by confession may be entered without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this chapter.

§ 7. **Substance of Statement.**—SEC. 298. A statement in writing shall be made, signed by the defendant and verified by his oath, to the following effect: (1) It shall authorize the entry of judgment for a specified

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 72.) For repealing clause see Nos. 119 and 118, § 3.



sum (2) If it be for money due or to become due, it shall state concisely the facts out of which it arose, and shall show that the sum confessed therefor is justly due or to become due (3) If it be for the purpose of securing the plaintiff against a contingent liability, it shall state concisely the facts constituting the liability, and shall show that the sum confessed therefor does not exceed the same.

§ 8. **Entry of Judgment.**—SEC. 299. The statement shall be filed with the clerk of the court in which the judgment is to be entered, who shall indorse upon it and enter in the judgment book a judgment of such court for the amount confessed, \* \* \*

**No. 196.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \*  
<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 75, chap. 25.) This No. is verbatim as No. 195. For repealing clause see No. 121, § 3.

**No. 197.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. **SECTION 1** *Be it enacted, etc.* \* \* \*

CHAPTER XXV.

§ 2. **When Judgment, May be Entered.**—SEC. 295. On the confession of the defendant, with the assent of the plaintiff or his attorney, judgment may be given against the defendant in any action before or after answer for any amount of relief not exceeding or different from that demanded in the complaint.

§ 3. **In Case of Territory, etc., Who May Confess.**—SEC. 296. When the action is against the Territory, a county or other public corporation therein, or a private corporation or a minor, the confession shall be made by the person who at the time sustains the relation to such Territory, corporation, county or minor, as would authorize the service of a notice upon him; or in<sup>2</sup> case of a minor, if a guardian for the action has been appointed, then by such guardian. In all other cases the confession shall be made by the defendant in person.

§ 4. **When, Against Joint Defendants.**—SEC. 297. When the action is upon a contract and against one or more defendants jointly liable, judgment may be given on the confession of one or more defendants against all the defendants thus jointly liable, whether such defendants have been served or not, to be enforced only against their joint property and against the joint and separate property of the defendant making the confession.

§ 5. **How Confession Made.**—SEC. 298. The confession and assent thereto shall be in writing and subscribed by the parties making the same, and acknowledged by each before some officer authorized to take acknowledgments of deeds.

§ 6. **No Action Necessary.**—SEC. 299. A judgment by confession may be entered without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this chapter.

§ 7. **Substance of Statement.**—SEC. 300. A statement in writing shall be made signed by the defendant and verified by his oath to the following

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 60.) For repealing clause and date when in effect see No. 121, §§ 3, 4.

<sup>2</sup> See No. 196, *infra*

effect: (1) It shall authorize the entry of judgment for a specified sum. (2) If it be for money due or to become due; it shall state concisely the facts out of which it <sup>a</sup> arose, and shall show that the sum confessed therefor is justly due or to become due. (3) If it be for the purpose of securing the plaintiff against a contingent liability, it shall state concisely the facts constituting the liability, and shall show that the sum confessed therefor does not exceed the same.

§ 8. **Entry and Effect of Judgment.**—SEC. 301. The statement must be presented to the district court or a judge thereof, and if the same be found sufficient, the court shall endorse thereon an order that judgment be entered by the clerk, whereupon it may be filed in the office of the clerk who shall enter a judgment for the amount confessed with costs. Execution may be issued and enforced thereon in the same manner as upon judgments in other cases.

\* \* \* \* \*

<sup>a</sup> See No. 198, *infra*.

**No. 198.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 81, chap. 25.) This No. is *verbatim* as No. 197 except § 3 of said No. at <sup>2</sup> insert "the," and § 7 at <sup>3</sup> instead of "it" read "the indebtedness." For repealing clause, date when in effect, etc., see Nos. 338, 339, 340.

**5. JUDGMENT BY SUBMISSION.**

**No. 199.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXVI.

§ 2. **How Submitted.**—SEC. 300. Parties to a question in difference which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought. But it must appear by affidavit that the controversy is real and the proceedings in good faith to determine the rights of the parties. The court shall thereupon hear and determine the case and render judgment thereon as if an action were depending.

§ 3. **Entry of Judgment.**—SEC. 301. Judgment shall be entered in the judgment book as in other cases. \* \* \*

§ 4. **Effect of Judgment.**—SEC. 302. The judgment may be enforced in the same manner as if it had been rendered in an action, and shall be in the same manner subject to appeal.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 73.) For repealing clause see Nos. 119 and 118, § 3.

**No. 200.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess., pp. 3, 76, chap. 26.) This No. is *verbatim* as No. 199, *supra*. For repealing clause see No. 121, § 3.

**No. 201.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 61, chap. 26.) This No. is *verbatim* as No. 199, except § 2. For repealing clause and date when in effect see No. 122, §§ 3, 4.

**No. 202.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35, 82, chap. 26.) This No. is *verbatim* as No. 199, *supra*. For date when in effect and repealing clause see Nos. 339, 340.

**6. ENTRY OF JUDGMENT.**

**No. 203.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXIV.

\* \* \* \* \*

§ 2. **Execution Docket.**—SEC. 234. Every clerk shall keep in his office a well bound book, to be called the execution docket, \* \* \*

§ 3. **When and How Judgment Entered.**—SEC. 235. Within thirty days after the close of any term of the court, the clerk shall enter in said execution docket a statement of each final judgment rendered at such term, containing—(1) The names at length of all the parties. (2) The date of the judgment, and against whom rendered. (3) The amount or nature of the judgment, and costs. (4) An abstract of the costs of each party, and to whom belonging.

§ 4. **Transcript of Judgment.**—SEC. 236. The clerk shall also enter in his execution docket a minute, in like manner, of any transcript of a judgment from the supreme court, or from the district court of any other county, or from a justice of the peace, when the same are presented to him for that purpose, as shall be provided for by law.

§ 5. **Record of Proceedings Subsequent to Judgment—Satisfaction.**—SEC. 237. He shall leave space on the same page if practicable with each case, in which he shall enter, in the order in which they occur, all the proceedings subsequent to the judgment in said case until its final satisfaction, including the time when and to what county the execution is issued, and when returned, and the return or substance thereof. \* \* \* When any sheriff shall furnish the clerk with a copy of any levy upon real estate on any judgment, the minutes of which are entered in his execution docket, the entry shall be, "levied upon real estate," noting the date, and shall refer to the page upon the book of levies where the same is entered, as is hereinafter provided. When any execution issued to any other county is returned, levied upon real estate in such county, the entry in the docket book shall be, "levied on real estate of —, in — county," noting the date, county and defendant whose estate is levied upon; and when the money is made, or any part thereof, the amount and time when made shall be entered; also, when a writ of error has been taken or the judg-

<sup>1</sup>Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 173.) For repealing clause see No. 115, § 2.



ment is appealed, reversed, modified, discharged, or in any manner satisfied, the facts in respect thereto shall be entered. The parties indebted may also assign or discharge such judgment on such execution docket; when the judgment is fully satisfied in any way the clerk shall write the word "satisfied" in large letters across the face of the entry of such judgment.

\* \* \* \* \*

§ 6. **Book of Levies: What to Contain.**—SEC. 239. The clerk shall also keep in his office a well bound book to be called the book of levies, which shall be a public record, \* \* \* in which he shall enter all levies upon real estate in his county, when delivered to him by the sheriff, as is provided by law. An alphabetical index shall be prefixed to the book of levies, containing the names of all persons upon whose real estate such levies have been made, and when such levies are discharged, in any manner, an entry thereof shall be made in the margin of the book of levies, where the levy is recorded.

\* \* \* \* \*

**No. 204.—AN ACT IN REGARD TO CLERK OF THE SUPREME AND DISTRICT COURTS, AND PRESCRIBING CERTAIN DUTIES FOR SUCH CLERKS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Appointment of Clerk.**—SEC. 4. There shall be appointed by the district court, or the judge thereof, in each county in this Territory in which a term of the district court is appointed to be held, a clerk, \* \* \*

\* \* \* \* \*

§ 3. **Execution Docket—Book of Levies—Final Record.**—SEC. 6. He shall, \* \* \* provide and keep well bound books, one for an execution docket, one for a book of levies, and one for a final record, in which he shall make a full and perfect record of all \* \* \* civil cases in which by any order or final judgment the title to real estate, or any interest therein, is in any way affected, and such other final judgments, orders or decisions as either party may require, \* \* \*

\* \* \* \* \*

<sup>1</sup> Date not given. (See First Reg. Sess. 1854, p. 366.)

**No. 205.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXII.

\* \* \* \* \*

§ 2. **Execution Docket.**—SEC. 225. Every clerk shall keep in his office a well bound book, to be called the execution docket, \* \* \*

§ 3. **When and How Judgment Entered.**—SEC. 226. Within twenty days after the close of any term of the court the clerk shall enter in said execution docket a statement of each final judgment rendered at such term, containing—(1) The names, at length, of all the parties. (2) The date of the judgment, and against whom rendered. (3) The amount or nature of the judgment and costs. (4) An abstract of the costs of each party, and to whom belonging.

<sup>1</sup> Approved Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 48.) For repealing clause see No. 117, § 3.

**§ 4. Transcript of Judgment.**—SEC. 227. The clerk shall also enter in his execution docket a minute, in like manner, of any transcript of a judgment from the supreme court, or from any other district court of the Territory, or from a justice of the peace, when the same are presented to him for that purpose, as shall be provided by law.

**§ 5. Record of Proceedings Subsequent to Judgment—Satisfaction.**—SEC. 228. He shall leave space on the same page, if practicable, with each case, in which he shall enter, in the order in which they occur, all the proceedings subsequent to the judgment in said case until its final satisfaction, including the time when and to what county the execution is issued, and when returned and the return and substance thereof. \* \* \* When any sheriff shall furnish the clerk with a copy of any levy upon real estate, or any judgment, the minutes of which are entered in his execution docket, the entry shall be, "levied upon real estate," noting the date, and shall refer to the page upon the book of levies where the same is entered, as is hereinafter provided. When any execution issued to any other county is returned, levied upon real estate in such county, the entry in the execution docket shall be, "levied on real estate of \_\_\_\_\_, in \_\_\_\_\_ county," noting the date, county and defendant whose estate is levied upon; and when the money is made, or any part thereof, the amount and time when made shall be entered; also when a writ of error has been taken, or the judgment is appealed, reversed,<sup>2</sup> modified, discharged, or in any manner satisfied, the facts in respect thereto shall be entered. The parties indebted may also assign or discharge such judgment on such execution docket; when the judgment is fully satisfied in any way, the clerk shall write the word "satisfied" in large letters across the face of the entry of such judgment.

\* \* \* \* \*

**§ 6. Book of Levies: What to Contain.**—SEC. 232. The clerk shall also keep in his office a well bound book, to be called the book of levies, \* \* \* in which he shall enter all levies upon real estate in his county, when delivered to him by the sheriff, as is provided by law. An alphabetical index shall be prefixed to the book of levies, containing the names of all persons upon whose real estate such levies have been made, and when such levies are discharged in any manner, an entry thereof shall be made in the margin of the book of levies where the levy is recorded.

\* \* \* \* \*

<sup>2</sup> See No. 207, *infra*.

**No. 206.—AN ACT IN REGARD TO CLERK OF THE SUPREME AND DISTRICT COURTS, AND PRESCRIBING CERTAIN DUTIES FOR SUCH CLERKS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Passed Jan. 17, 1863. (See Tenth Reg. Sess. 1862-63, p. 416, secs. 4, 6.) This No. is *verbatim* as No. 201, *supra*.

**No. 207.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 135, chap. 24, secs. 260 to 263 inclusive, and 267.) This No. is *verbatim* as No. 205, *supra*, except § 5 of said No. at <sup>2</sup> the word "reversed" is omitted. In effect from date. For repealing clause see No. 118, § 3.

**No. 208.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXVII.

\* \* \* \* \*

§ 2. **Execution Docket.**—SEC. 309. Every clerk shall keep in his office a well bound book, to be called the execution docket,

\* \* \* \* \*

§ 3. **Record of Proceedings Subsequent to Judgment—Satisfaction.**—SEC. 312. He shall leave space on the same page, if practicable, with each case, in which he shall enter, in the order in which they occur, all the proceedings subsequent to the judgment in said case until its final satisfaction, including the time when and to what county the execution is issued, and when returned and the return or substance thereof. \* \* \*

When any sheriff shall furnish the clerk with a copy of any levy upon real estate on any judgment the minutes of which are entered in his execution docket, the entry shall be, "levied upon real estate," noting the date, and shall refer to the page upon the book of levies where the same is entered, as is hereinafter provided. When any execution issued to any other county is returned levied upon real estate in such county, the entry in the execution docket shall be, "levied on real estate of \_\_\_\_\_, in \_\_\_\_\_ county," noting the date, county and defendant whose estate is levied upon, and when the money is made, or any part thereof, the amount and time when made shall be entered; also when a writ of error has been taken, or the judgment is appealed, modified, discharged, or in any manner satisfied, the facts in respect thereto shall be entered. The parties interested may also assign or discharge such judgment on such execution docket. When the judgment is fully satisfied in any way the clerk shall write the word "satisfied," in large letters, across the face of the entry of such judgment.

\* \* \* \* \*

§ 4. **Book of Levies: What to Contain.**—SEC. 315. The clerk shall also keep in his office a well bound book, to be called a book of levies, \* \* \* in which he shall enter all levies upon real estate in his county, when delivered to him by the sheriff, as provided by law. An alphabetical index shall be prefixed to the book of levies, containing the names of all persons upon whose real estate such levies have been made, and when such levies are discharged in any manner, an entry thereof shall be made in the margin of the book of levies where the levy is recorded.

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 74.) For repealing clause see Nos. 119 and 118, § 3.

<sup>2</sup> See No. 211, *infra*.

**No. 209.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 77, chap. 27, secs. 307, 310, 313.) This No. is *verbatim* as No. 208, *supra*. For repealing clause see No. 121, § 3.

**No. 210.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 62, chap. 27, secs. 311, 314, 317.) This No. is *verbatim* as No. 208, *supra*. For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 211.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 85, 82, chap. 27, secs. 307, 310, 313.) This No. is *verbatim* as No. 208, *supra*, except § 3 of said No. at 2 "execution" is omitted. For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

**No. 212.—AN ACT IN REGARD TO CLERK OF THE SUPREME AND DISTRICT COURTS, AND PRESCRIBING CERTAIN DUTIES FOR SUCH CLERKS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 6, 1881. (See Code 1881, p. 375, chap. 157, secs. 2177, 2179.) This No. is *verbatim* as No. 204, *supra*. For date in effect, repealing clause, etc., see Nos. 338, 339, 340.

**7. JUDGMENTS—LIEN OF.**

**No. 213.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

\* \* \* \* \*

**CHAPTER XXV.**

**§ 2. How Lien Created: Force and Effect.**—SEC. 240. The real estate of any judgment debtor, and such as he may acquire, shall be held and bound to satisfy any judgment of the district or supreme court, or any judgment of a justice of the peace, authorized by law to be levied upon real estate, for the period of five years from the day on which said judgment was rendered, said lien to commence as follows: On judgments of the district court of the county where the land is situated, from the date of the rendition of the judgment. In all other cases, from the date on which the levy is made: *Provided*, The levy shall be lodged with the clerk, to be recorded in the book of levies, in the manner and at the time prescribed by law. If not so lodged with the clerk within such time, then from the time when it shall be so lodged. An appeal to the supreme court, writ of error or stay of execution shall not affect any existing lien, and in all cases of an appeal or writ of error, the time from which the five years shall commence to run shall be from the date of the final judgment in the supreme court.

\* \* \* \* \*

<sup>1</sup>Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 175.) For repealing clause see No. 115, § 2.

**No. 214.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

\* \* \* \* \*

**§ 2. How Lien Created: Force and Effect.**—SEC. 15. Every judgment of a district court shall be a lien throughout the district upon real estate in the same manner as is now provided by law in case of counties for five years from the time it is rendered: *Provided*, That unless a certified copy of the judgment be lodged with the county auditor, or unless a copy of an execution directed to the sheriff of the county be presented to him for entry in his execution docket within twenty days after the close of the term at which it is rendered, the lien upon the real estate in that county shall be suspended until the judgment is so lodged for entry, or the execution so presented.

\* \* \* \* \*

<sup>1</sup>Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-57, p. 7.)

**No. 215.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXIII.

§ 2. **Rate of Interest Judgment Shall Bear.**—SEC. 233. Judgments shall bear the legal rate of interest<sup>2</sup> from date thereof, except when rendered upon an express contract in writing wherein a different rate of interest is agreed upon by the parties, in which case the judgment shall, until paid and satisfied, bear the same rate of interest specified in such written contract.

§ 3. **How Lien Created: Force and Effect.**—SEC. 234. The real estate of any judgment debtor, and such as he may acquire, shall be held and bound to satisfy any judgment of the district or supreme court, or any judgment of a justice of the peace, authorized by law to be levied upon real estate, for the period of five years from the day on which said judgment was rendered: *Provided*, That unless a certified transcript of the said judgment be lodged with the county auditor of the county where the lands lie, or unless a copy of an execution, directed to the sheriff of said county, be presented to said auditor for entry in his execution docket, within twenty days after the close of the term at which it is rendered, the lien upon real estate in that county shall be suspended, until the transcript of said judgment is so lodged for entry, or the execution so presented. An appeal to the supreme court, writ of error or stay of execution shall not affect any existing lien; and in all cases of an appeal or writ of error the date of final judgment in the supreme court shall be the time from which said five years shall commence to run.

\* \* \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 51.) For repealing clause see No. 117, § 2.

<sup>2</sup> Ten per cent. per annum. (See "An act to regulate the interest of money," First Reg. Sess. 1851, p. 380.)

**No. 216.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 134, ch. 25, secs. 268, 269.) This No. is *verbatim* as No. 215, *supra*. In effect from date. For repealing clause see No. 218, § 3.

**No. 217.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXVIII.

§ 2. **Rate of Interest Judgment Shall Bear.**—SEC. 316. Judgments shall bear the legal rate of interest<sup>2</sup> from date thereof, except when rendered upon an express contract in writing wherein a different rate of interest is agreed upon by the parties, in which case the judgment shall, until paid and satisfied, bear the same rate of interest specified in such written contract.

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blen. Sess. 1869, pp. 3, 78.) For repealing clause see Nos. 119 and 118, § 3.

<sup>2</sup> Ten per cent. per annum. (See "An act to regulate the interest of money," Tenth Reg. Sess. 1862-63, p. 431.)

§ 3. **How Lien Created: Force and Effect.**—SEC. 317. The real estate of any judgment debtor, and such as he may acquire, shall be held and bound to satisfy any judgment of the district or supreme court, or any judgment of a justice of the peace authorized by law to be levied upon real estate, for the period of five years from the day on which said judgment was rendered, said lien to commence as follows: On judgments of the district court of the district including the county or counties in which real estate of the judgment debtor is situated, from the date of the rendition, but within twenty days from the date of such rendition a transcript thereof, certified by the clerk of the said district court, shall be filed in the county auditor's office of the county where the said lands are situated, and if not so filed within said period of twenty days the lien of said judgment shall be suspended until the filing of said transcript. From and after said filing of transcript by the county auditor of any county in the Territory, such judgment shall be a lien upon all real estate of the judgment debtor in such county for the period of five years, commencing from the date on which said judgment was rendered. In all other judgments which are by law a lien upon real estate, the lien upon lands in any particular county commences and attaches from the date of filing the transcript in the county auditor's office of said county, and continues for the period of five years from the date of rendition of the judgment.

§ 4. **Revival of Judgments—Rights of Third Parties, etc.**—SEC. 318. Nothing in the foregoing section contained shall be so construed as to prevent the revival of a judgment and continuance of the lien thereof after the expiration of said period of five years, by agreement of the parties filed in writing in term or vacation and entered upon the proper docket, or a revival of the same upon notice and motion for leave to issue execution, as hereinafter prescribed.<sup>3</sup> The certified transcript of such proceedings shall be filed with the county auditor, as hereinbefore prescribed, within twenty days from the date of such revival, or the lien shall be suspended until so filed, and said revived judgment shall be and continue a lien on the real estate of the judgment debtor for the period of five years from the date of the revival: *Provided always*, That nothing herein contained shall affect the rights of third parties who may have acquired liens during the period which may have intervened between the expiration of the lien of the original judgment and the filing of the certified transcript of its revival: *And provided also*, That parties may continue said lien by proceedings had before the expiration of said period of five years.

§ 5. **Appeals, etc.: Effect of.**—SEC. 319. An appeal to the supreme court, writ of error or stay of execution shall not affect any existing lien; and in all cases of an appeal or writ of error, the date of final judgment in the supreme court shall be the time from which said five years shall commence to run.

\* \* \* \* \*

\* Secs. 320, 321. (See No. 224, *infra*.)

#### No. 218.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

#### CHAPTER XXVIII.

§ 2. **Rate of Interest Judgment Shall Bear.**—SEC. 314. Judgments shall bear the legal rate of interest<sup>2</sup> from date thereof, except when

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 81.) For repealing clause see No. 121, §3.

<sup>2</sup> Ten per cent. per annum. (See "An act to regulate the interest of money" Tenth Reg. Sess. 1862-63, p. 433.)

rendered upon an express contract in writing wherein a different rate of interest is agreed upon by the parties, in which case the judgment shall, until paid and satisfied, bear the same rate of interest specified in such written contract.

§ 3. **How Lien Created: Force and Effect.**—SEC. 815. The real estate of any judgment debtor, and such as he may acquire, shall be held and bound to satisfy any judgment of the district or supreme court, or any judgment of a justice of the peace authorized by law to be levied upon real estate, for the period of five years from the day on which said judgment was rendered, said lien to commence as follows: On judgments of the district court of the district including the county or counties in which real estate of the judgment debtor is situated, from the date of the rendition, but within twenty days from the date of such rendition, a transcript thereof certified by the clerk of the said district court, shall be filed\* in the county auditor's office of the county where the said lands are situated, and if not so filed within said period of twenty days, the lien of said judgment shall be suspended until the filing of said transcript. From and after said filing of transcript by the county auditor of any county in the Territory, such judgment shall be a lien upon all real estate of the judgment debtor in such county for the period of five years, commencing from the date on which said judgment was rendered. In all other judgments which are by law a lien upon real estate, the lien upon lands in any particular county commences and attaches from the date of filing the transcript in the county auditor's office of said county, and continues for the period of five years from the date of rendition of the judgment.

§ 4. **Revival of Judgment—Rights of Third Parties—Mortgage Lien, etc.**—SEC. 816. Nothing in the foregoing section contained shall be so construed as to prevent the revival of a judgment and continuance of the lien thereof after the expiration of said period of five years, by agreement of the parties filed in writing in term or vacation, and entered upon the proper docket, or a revival of the same upon notice and motion for leave to issue execution as hereinafter prescribed.† The certified transcript of such proceedings shall be filed with the county auditor as hereinbefore prescribed, within twenty days from the date of such revival, or the lien shall be suspended until so filed, and said revived judgment shall be and continue a lien on the real estate of the judgment debtor for the period of five years from the date of the revival: *Provided always*, That nothing herein contained shall affect the rights of third parties who may have acquired liens during the period which may have intervened between the expiration of the lien of the original judgment and the filing of the certified transcript of its revival: *And provided also*, That parties may continue said lien by proceedings had before the expiration of said period of five years: *And provided further*, That no lien created by a mortgage or for the purchase price of any real or personal estate shall merge in any judgment, but the same shall be continued or remain in the judgment, whether a transcript thereof shall be filed as above provided or not, just the same as created by the original mortgage or claim.

§ 5. **Appeals, etc.: Effect of.**—SEC. 317. An appeal to the supreme court, writ of error or stay of execution shall not affect any existing lien; and in all cases of an appeal or writ of error, the date of final judgment in the supreme court shall be the time from which said five years shall commence to run.

\* \* \* \* \*

\* See No. 219, *infra*.

† Secs. 318, 319. (See Nos. 225 and 224, *infra*.)



**No. 219.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 65, chap. 28.) This No. is *verbatim* as No. 218, *supra*, except § 3 of said No. at \* after the words "shall be filed" read the words "and recorded." For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 220.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

CHAPTER XXVIII.

§ 1. **Rate of Interest Judgment Shall Bear.**—SEC. 320. Judgments shall bear the legal rate of interest<sup>2</sup> from date thereof, except when rendered upon an express contract in writing, wherein a different rate of interest is agreed upon by the parties, in which case the judgment shall, until paid and satisfied, bear the same rate of interest specified in such written contract.

§ 2. **How Lien Created—Force and Effect.**—SEC. 321. The real estate of any judgment debtor, and such as he may acquire, shall be held and bound to satisfy any judgment of the district or supreme court, or any judgment of a justice of the peace, authorized by law to be levied upon real estate, for the period of five years from the day on which said judgment was rendered, said lien to commence as follows: On judgments of the district court of the district including the county or counties in which real estate of the judgment debtor is situated, from the date of the rendition, but within twenty days from the date of such rendition a transcript thereof certified by the clerk of the said district court shall be filed and recorded in the county auditor's office of the county where the said lands are situated, and if not so filed within said period of twenty days, the lien of said judgment shall be suspended until the filing of said transcript. From and after said filing of transcript by the county auditor of any county in the territory, such judgment shall be a lien upon all real estate of the judgment debtor in such county for the period of five years, commencing from the date on which said judgment was rendered. In all other judgments which are by law a lien upon real estate, the lien upon lands in any particular county commences and attaches from the date of filing the transcript in the county auditor's office of said county, and continues for the period of five years from the date of rendition of the judgment.

§ 3. **Appeals, etc.: Effect of.**—SEC. 322. An appeal to the supreme court, writ of error or stay of execution shall not affect any existing lien; and in all cases of an appeal or writ of error, the date of final judgment in the supreme court shall be the time from which said five years shall commence to run.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 85.) For date when in effect, repealing clause, etc., see No. 338, 339, 340.

<sup>2</sup> Ten per cent. per annum. (See *Ibid*, p. 409, sec. 2368.)

8. JUDGMENTS—REVIVAL OF.

**No. 221.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXVI.

\* \* \* \* \*

§ 2. **How Judgment Revived.**—SEC 248. After the lapse of five years from the date of the judgment, an execution can be issued only by leave of the court, upon motion, with personal notice to the adverse party, unless he be absent or non-resident, or cannot be found, in which case it may be given by publication, or in such other manner as the court shall direct; such leave shall not be given unless it be established by the oath of the party, or other satisfactory proof, that the judgment or some part thereof remains unsatisfied and due.

\* \* \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 175.) For repealing clause see No. 115, § 2.

**No. 222.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 52, chap. 24, sec. 237.) This No. is *verbatim* as No. 221, *supra*. For repealing clause see No. 147, § 2.

**No. 223.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 139, chap. 26, sec. 272.) This No. is *verbatim* as No. 221, *supra*. In effect from date. For repealing clause see No. 118, § 3.

**No. 224.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXIX.

§ 2. **How Judgment Revived.**—SEC. 820. The party in whose favor judgment is given may at any time within five years thereafter issue a writ of execution for its enforcement, as prescribed by law: *Provided, however,* That if the period of five years shall have elapsed without an execution being issued on the judgment, an execution shall not issue thereafter, except as herein provided: (1) The judgment creditor, his assignee or the party to whom said judgment is due and payable, shall file a motion with the clerk of the court where judgment is entered for leave

<sup>1</sup> Approved Dec. 3, 1869. (See Second Elen. Sess. 1861, p. 79.) For repealing clause see Nos. 119 and 118, § 3.

to issue an execution. \* \* \* (2) At any time after filing such motion the party may cause notice to be served on the judgment debtor in like manner and with like effect as in an action at law. In case such judgment debtor be dead the notice may be served upon his representatives by publication, as in case of a non-resident, or by personal service. (3) The notice shall be substantially the same as in an action at law, and it shall also state the amount claimed or the property sought to be recovered. (4) The judgment debtor or, in case of his death, his representatives may file an answer to such motion within the time allowed by law to answer a complaint, alleging any defense to such motion which may exist. If no answer be filed within the time prescribed the motion shall be allowed of course. \* \* \* (5) The word representatives in this section shall be deemed to include any or all of the persons in whose possession property of the judgment debtors may be, which is liable to be taken and sold or delivered in satisfaction of the execution. (6) The order shall specify the amount for which execution is to issue, or the particular property, possession of which is to be delivered; it shall be entered in the journal and docketed as a judgment, and a final record shall be made of the proceedings in the same manner as a judgment.

§ 3. **Force and Effect of Revived Judgment.**—SEC. 821. Such leave shall not be given unless it be established by oath of the party or other satisfactory proof that the judgment or some part thereof remains unsatisfied. The order of court granting such leave shall operate as a revival of the judgment for the amount found due at the time of such revival, and the same shall be and continue a lien upon real estate of the judgment debtor for the period of five years from and after the date of such order, in like manner with the original judgment: *Provided*, That a transcript thereof shall within twenty days be filed in the office of the county auditor of the county where the lands lie of such judgment debtor, or said lien shall be suspended till such transcript be filed. Revived judgments shall be in all respects similar to original judgments, as to lien and enforcement or collection.

\* \* \* \* \*

**No. 225.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 2, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 82, chap. 29, sec. 318, 319.) This No. is verbatim as No. 224, *supra*. For repealing clause see No. 121, § 3.

**No. 226.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 67, chap. 29, sec. 328, 329.) This No. is verbatim as No. 224, *supra*. For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 227.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc*

\* \* \* \* \*

**CHAPTER XXIX.**

§ 2. **How Judgment Revived.**—SEC. 929. If any judgment shall remain unsatisfied in whole or in part, at the end of five years after the

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35, 86.) For date when in effect, repealing clause, etc., see Nos. 238, 339, 340.

date of its rendition, the lien thereof may be revived and continued, as in this section provided: (1) The judgment creditor, his assignee, or the party to whom said judgment is due and payable, shall file a motion with the clerk of the court where judgment is entered, to revive and continue the lien of the same, with leave to issue an execution. \* \* \* (2) At any time after filing such motion, the party may cause notice to be served on the judgment debtor in like manner and with like effect as a summons; said notice shall be attached to a copy of said motion by the clerk of the court, and be served by the sheriff or other officer as an original summons. It shall cite the judgment debtor to appear and show cause why the said motion should not be allowed. The time in which the judgment debtor shall be required to appear shall be the same as is prescribed for answer to a complaint, and the law applicable to service of a summons shall apply to the service of such notice. In case the judgment debtor be dead, the notice may be served upon his legal representatives. (3) The judgment debtor, or in case of his death his representatives, may file an answer or demurrer to such motion within the time allowed by law to answer a complaint, alleging any defense to such motion which may exist. If no answer be filed within the time prescribed, the motion shall be allowed as of course. \* \* \* (4) The word "representatives" in this section shall be deemed to include any or all of the persons in whose possession property of the judgment debtor may be which is liable to be taken and sold or delivered in satisfaction of the execution, and not otherwise. (5) The order shall specify the amount due upon such unsatisfied judgment for which execution is to issue, or the particular property, possession of which is to be delivered; it shall be entered in the journal and docketed as a judgment, and a final record shall be made of the proceedings in the same manner as a judgment.

§ 3. **Force and Effect of Revived Judgment.**—SEC. 324. Such motion shall not be granted unless it be established by oath of the party or other satisfactory proof that the judgment, or some part thereof, remains unsatisfied. The order of court granting such leave shall operate as a revival of the judgment for amount found due at the time of such revival, and the same shall be and continue a lien upon real estate of the judgment debtor for a period of five years from and after the date of such order, in like manner with the original judgment: *Provided*, That a transcript thereof shall within twenty days be filed in the office of the county auditor of the county where the lands lie of such judgment debtor, or said lien shall suspend till such transcript be filed. Revived judgments shall bear the same interest and be in all respects similar to original judgments, as to lien and enforcement or collection.

\* \* \* \* \*

## 9. JUDGMENTS—TRANSCRIPT OF.

### No. 228.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

#### § 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

#### CHAPTER LMI.

\* \* \* \* \*

§ 2. **When and How Transcripts Taken and Filed.**—SEC. 500. Any party having a judgment upon any justice's docket, upon which an execution has been returned unsatisfied, and no property found, may take a

<sup>1</sup>Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 218.) For repealing clause see No. 115, § 2.

transcript of such judgment and return to the clerk of the district court of the county, and upon making an affidavit that the defendant has real estate in said county, subject to execution, the clerk shall enter the judgment in the execution docket, in the same manner as judgments of the district court, and thereafter it shall stand, and execution be issued thereon, as upon the judgment of the district court.

\* \* \* \* \*

**No. 229.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS."<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **What Transcript Shall Contain—How Judgment Satisfied.**—**SEC. 18.** The auditor of each county shall keep in his office a well bound book, \* \* \* in which he shall enter, whenever a transcript of a judgment from the supreme or district courts, or an execution, shall be presented to him for that purpose: (1) The names at length of all the parties, plaintiffs and defendants. (2) The date of the judgment and against whom rendered. (3) The amount or nature of the judgment and costs. (4) An abstract of the costs of each party, and to whom belonging, leaving room, in connection with each case, if practicable, to enter all the subsequent proceedings upon the execution, levies, sales, etc., and when a judgment is satisfied, he shall write across the face in large letters the word "satisfied."

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-7, p. 7.)

**No. 230.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

**CHAPTER XXII.**

\* \* \* \* \*

§ 2. **What Transcript Shall Contain—How Judgment Satisfied.**—**SEC. 230.** The auditor of each county shall keep in his office a well bound book, \* \* \* in which he shall enter whenever a transcript of a judgment from the supreme or district courts, or an execution, shall be presented to him for that purpose: (1) The names at length of all the parties, plaintiffs and defendants. (2) The date of the judgment and against whom rendered. (3) The amount or nature of the judgment and costs. (4) An abstract of the costs of each party, and to whom belonging, leaving room in connection with each case, if practicable, to enter all the subsequent proceedings upon the execution, levies, sales, etc., and when a judgment is satisfied, he shall write across the face in large letters the word "satisfied."

\* \* \* \* \*

**CHAPTER LXIX.**

\* \* \* \* \*

§ 3. **Transcript From Justice Court.**—**SEC. 494.** Any party having a judgment upon any justice's docket upon which an execution has been re-

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 48, 99.) For repealing clause see No. 117, § 2.

turned unsatisfied, and no property found, may take a transcript of such judgment and return<sup>2</sup> to the clerk of the district court embracing his county, and upon making an affidavit that the defendant has real estate in any county of said district subject to execution, the clerk shall enter the judgment in the execution docket, in the same manner as judgments of the district court, and thereafter it shall stand and execution be issued thereon as upon the judgment of the district court. A transcript thereof, or a copy of the execution issued thereupon, shall, as in other judgments, be recorded by the county auditor and remain a lien upon real estate in the county where so recorded.

\* \* \* \* \*

<sup>2</sup> See No. 231, *infra*.

**No. 231.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 135, 195, chap. 24, sec. 265, and chap. 52, sec. 541.) This No. is *verbatim* as No. 230, *supra*, except § 3 of said No. at <sup>2</sup> after "return" insert "it." In effect from date. For repealing clause see No. 118, § 3.

**No. 232.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

\* \* \* \* \*

CHAPTER XXVII.

\* \* \* \* \*

**§ 2. When and How Transcripts Taken and Filed—What Shall Contain.**—SEC. 310. Within twenty days after the close of any term of the court the clerk shall enter in said execution docket a statement of each final judgment rendered at such term, and shall at the request of the judgment creditor or his attorney \* \* \* furnish a transcript of said judgment to said judgment creditor, and upon the filing of said transcript in the office of the county auditor, it shall be a lien upon all real estate of said judgment debtor in the county where such transcript shall be filed for the period of five years from the date said judgment was rendered. And said lien shall have attached<sup>2</sup> from the day of the date of said judgment if said transcript shall have been filed within the said twenty days. And in case where an attachment had<sup>3</sup> been levied upon any real estate, then from the service of<sup>4</sup> the attachment. \* \* \* Said statement and transcript<sup>5</sup> shall contain: (1) The names at length of all the parties. (2) The date of the judgment and against whom rendered. (3) The amount or nature of the judgment and costs. (4) An abstract of the costs of each party, and to whom belonging.

**§ 3. Duties of Clerk.**—SEC. 311. The clerk shall also enter in his execution docket a minute, in like manner, of any transcript of a judgment from the supreme court, or from any other district court of the Territory, or from a justice of the peace, when the same are presented to him for that purpose, as shall be provided by law. He shall in like manner, at the instance of the judgment creditor, furnish to any county auditor's office any certified transcript of said judgment for filing therein, \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 74, 172.)

<sup>2</sup> \* \* \* <sup>5</sup> See No. 236, *infra*.



§ 4. **Duty of Auditor—How Judgment Satisfied.**—SEC. 314. The auditor of each county shall keep in his office a well bound book, \* \* \* in which he shall enter all transcripts of judgments from the supreme or district courts presented to him for that purpose, and when a judgment is satisfied he shall write across the face in large letters the word "satisfied."

\* \* \* \* \*

#### CHAPTER LXII.

\* \* \* \* \*

§ 5. **Transcript From Justice Court.**—SEC. 695. Any party having a judgment upon any justice's docket, upon which an execution has been returned unsatisfied, and no property found, may take a transcript of such judgment and return it to the clerk of the district court embracing his county, and upon making an affidavit that the defendant has real estate in any county of said district subject to execution, the clerk shall enter the judgment in the execution docket, in the same manner as judgments of the district court, and thereafter it shall stand and execution be issued thereon as upon the judgment of the district court. A transcript thereof shall, as in other judgments, be recorded by the county auditor and remain a lien upon real estate in the county where so recorded.

\* \* \* \* \*

#### No. 233.—AN ACT IN RELATION TO COUNTY AUDITOR.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Duty of Auditor—How Judgment Satisfied.**—SEC. 29 The auditor of each county shall keep in his office a well-bound book, \* \* \* in which shall be entered all transcripts of judgment from the supreme or district court which by law are the evidence of lien upon real estate in his county. And when a judgment is satisfied, he shall write across the face in large letters the word "satisfied." It shall also be his duty to keep an index showing the name of judgment debtor, or the name of judgment creditor, the amount, date of judgment and, under the head of remarks, whether such judgment is satisfied, revived, assigned or whatever disposition has been made of the same.

<sup>1</sup>Approved Nov. 29, 1869. (See Second Bien. Sess. 1869, p. 310.)

#### No. 234.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup>Approved Dec. 2, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 77, chap. 27, secs. 308, 309, 312, p. 176, chap. 62, sec. 693.) This act is *verbatim* as No. 232, *supra*. For repealing clause see No. 121, § 3.

#### No. 235.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 62, chap. 27, secs. 312, 313, 316, p. 176, chap. 61, sec. 738.) This act is *verbatim* as No. 232, *supra*. For date when in effect and repealing clause, see No. 122, §§ 3, 4.



**No. 236.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35, 82, chap. 27, secs. 308, 309, 312; p. 154, chap. 64, sec. 753.) This No. is *verbatim* as No. 232, *supra*, except § 2 of said No. at 2 instead of "shall have attached" read "shall attach," and at 3 instead of "had" read "has," and at 4 instead of "service of" read "levy of," and at 5 instead of "statement and transcript" read "statements and transcripts." For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

10. JUDGMENTS—APPEALS, ETC.

**No. 237.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXXVIII.

§ 2. **Judgments, etc., Appealable.**—SEC. 340. Every final judgment, order or decision of a district court, in a civil action, may be re-examined upon a writ of error, in the same court for error in fact, and in the supreme court for error in law.

\* \* \* \* \*

§ 3. **Effect of Reversal.**—SEC. 354. The reversal of a judgment, order or decision shall not affect the title of property sold upon an execution issued upon such judgment, order or decision, if such property be purchased at the sale by a stranger, but if purchased by the judgment creditor, the plaintiff in error may bring an action for the recovery thereof, and the court may award restitution, or render such other judgment as justice shall require.

\* \* \* \* \*

<sup>1</sup>Passed April 28, 1854. (See First Reg. Sess. 1854, p. 196.) For repealing clause see No. 115, § 2.

**No. 238.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 74, chap. 36, secs. 332, 346.) This No. is *verbatim* as No. 237, *supra*. For repealing clause see No. 117, § 2.

**No. 239.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 105, chap. 39, secs. 376, 390.) This No. is *verbatim* as No. 237, *supra*. In effect from date. For repealing clause see No. 118, § 3.

**No. 240.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XLI.

§ 2. **Judgments, etc., Appealable.**—SEC. 432. Every final judgment, order or decision of a district court, in a civil action, may be re-examined upon a writ of error in the supreme court for error in law. \* \* \*

\* \* \* \* \*

§ 3. **Effect of Reversal.**—SEC. 445. The reversal of a judgment, order or decision shall not affect the title of property sold upon an execution issued upon such judgment, order or decision; but the plaintiff in error may bring an action for the recovery thereof, and the court may award restitution or render such other judgment as justice shall require.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 116.) For repealing clause see Nos. 119 and 118, § 3.

**No. 241.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 119, chap. 42, secs. 430, 443.) This No. is *verbatim* as No. 240, *supra*. For repealing clause see No. 121, § 3.

**No. 242.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XLI.

\* \* \* \* \*

§ 2. **Judgments, etc., Appealable.**—SEC. 447. The supreme court has appellate jurisdiction over all judgments and decisions of all other courts of record, as well in case of<sup>2</sup> civil actions as in proceedings of a special or independent character. \* \* \*

\* \* \* \* \*

§ 3. **Effect of Reversal.**—SEC. 483. If, by the decision of the supreme court, the appellant or plaintiff in error becomes entitled to a restoration of any part of the money or property that was taken from him by means of such judgment or order, either the supreme court or the court below may direct execution or writ of restitution to issue for the purpose of restoring to such appellant or plaintiff in error his property or the value thereof.

§ 4. **Innocent Purchasers Protected.**—SEC. 484. Property acquired by a purchaser in good faith under a judgment subsequently reversed shall not be affected by such reversal.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, p. 96.) For date when in effect and repealing clause see No. 122, §§ 3, 4.

<sup>2</sup> See No. 243, *infra*.

**No. 243.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 110, chap. 42, secs. 415, 479, 480.) This No. is *verbatim* as No. 242, *supra*, except § 2 of said No. at <sup>2</sup> instead of "in case of" read "cases of." For date when in effect and repealing clause see Nos. 338, 339, 341.

# 11. JUDGMENTS—EXECUTION OF.

## (A) GENERAL RULES.

### No. 244.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

§ 1. SECTION 1 *Be it enacted, etc.*

\* \* \* \* \*

## CHAPTER XXVI.

§ 2. **When Writ May Issue.**—SEC. 242. The party in whose favor judgment is given, may, at any time within five years thereafter, issue a writ of execution for its enforcement, as prescribed by law

\* \* \* \* \*

§ 3. **Kinds of Executions.**—SEC. 245. There shall be four kinds of executions: One against the property of the judgment debtor; \* \* \* the third for the delivery of the possession of real or personal property, or such delivery with damages for withholding the same; \* \* \*

§ 4. **Writ: To Whom Directed—Substance of—What Shall Require.**—SEC. 246. The writ of execution shall be issued in the name of the United States, sealed with the seal of the court and subscribed by the clerk, and shall be directed to the sheriff, or coroner, when the sheriff is a party or interested, and shall intelligibly refer to the judgment, stating the court, the county where the judgment was rendered, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and shall require the sheriff substantially as follows. (1) If it be against the property of the judgment debtor, it shall require the sheriff to satisfy the judgment, with interest, out of the personal property of such debtor, and if sufficient personal property cannot be found, out of his real property, upon which the judgment is a lien. (2) If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property or trustees, it shall require the sheriff to satisfy the judgment, with interest, out of such property. \* \* \* (4) If it be for the delivery of the possession of real or personal property, it shall require the sheriff to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may at the same time require the sheriff to satisfy any charges, damages or rents and profits, recovered by the same judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered, to be specified therein, if a delivery thereof cannot be had, and if sufficient personal property cannot be found, then out of his real property. \* \* \*

§ 5. **In What Case Writ May Issue to Another County.**—SEC. 247. When the execution is against the property of the judgment debtor, it may be issued to the sheriff of any county in this Territory, but it shall not be issued, in the first instance, to the sheriff of any other county than that in which the judgment is rendered unless the plaintiff or his attorney shall first make and file with the clerk an affidavit that the defendant has not, subject to execution, sufficient property, real or personal, in said county to satisfy the judgment, but that he has property subject to execution in some other county or counties. But after an execution has been returned "no property found" in the county in which judgment was rendered, an execution may be issued to any other county, upon the plaintiff or his attorney making oath that the defendant has property subject to

<sup>1</sup>Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 173, 218.) For repealing clause see No. 115, § 2.

execution in some other county or counties. When it requires the delivery of real or personal property, it shall be issued to the sheriff of the county where the property, or some part thereof, is situated.

§ 6. **When Writ Returnable.**—SEC. 248. The sheriff shall endorse upon a writ of execution the time when he received the same, and such execution shall be returnable within ninety days after its date to the clerk who issued the same.

§ 7. **What Property Liable to Execution.**—SEC. 251. All property, real and personal, of the judgment debtor, not exempt by law, shall be liable to execution.

#### CHAPTER LIII.

§ 8. **Extent of Lien on Property Held in Common.**—SEC. 499. When a defendant in execution owns real estate subject to execution, jointly or in common with any other person, the judgment shall be a lien and the execution be levied upon the interest of the defendant only.

### No. 245.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS."<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Levy: How Made.**—SEC. 14. It shall be the duty of every sheriff, into whose hands an execution may come from the district or supreme courts, before he shall proceed to execute the same, to present it to the auditor of the county for record in the "execution docket." And he shall also present to the auditor for a like purpose, copies of all levies and proceedings made and had by him under and by virtue of said execution.

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-7, p. 7.)

### No. 246.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

#### CHAPTER XXII.

§ 2. **Levy: How Made.**—SEC. 231. It shall be the duty of every sheriff into whose hands an execution may come from the district or supreme courts, before he shall proceed to execute the same, to present it to the auditor of the county for record in the "execution docket." And he shall also present to the auditor, for a like purpose, copies of all levies and proceedings made and had by him under and by virtue of said execution.

#### CHAPTER XXIV.

§ 3. **When Writ May Issue.**—SEC. 236. The party in whose favor judgment is given, may, at any time within five years thereafter, issue a writ of execution for its enforcement, as prescribed by law.

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Bien. Sess. 1859-60, pp. 3, 51, 99.) For repealing clause see No. 117, § 2.

§ 4. **Kinds of Execution.**—SEC. 239. There shall be four kinds of executions: One against the property of the judgment debtor; \* \* \* the third for the delivery of the possession of real or personal property, or such delivery with damages for withholding the same; \* \* \*

§ 5. **Writ: To Whom Directed—Substance of—What Shall Require.**—SEC. 240. The writ of execution shall be issued in the name of the United States, sealed with the seal of the court, and subscribed by the clerk, and shall be directed to the sheriff of the county in which the property is situated, or coroner, when the sheriff is a party or interested, and shall intelligibly refer to the judgment, stating the court, the district or county where the judgment was rendered, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and shall require the sheriff, substantially, as follows: (1) If it be against the property of the judgment debtor, it shall require the sheriff to satisfy the judgment, with interest, out of the personal property of the debtor, and if sufficient personal property cannot be found, out of his real property, upon which the judgment is a lien. (2) If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property or trustees, it shall require the sheriff to satisfy the judgment, with interest, out of such property. \* \* \* (4) If it be for the delivery of the possession of real or personal property, it shall require the sheriff to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may at the same time require the sheriff to satisfy any charges, damages, or rents and profits, recovered by the same judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered, to be specified therein. If a delivery thereof cannot be had, and if sufficient personal property cannot be found, then out of his real property. \* \* \*

§ 6. **In What Case Writ May Issue to Another County.**—SEC. 241. When the execution is against the property of the judgment debtor, it may be issued to the sheriff of any county in this Territory, but it shall not be issued in the first instance to the sheriff of any county out of the district in which the judgment is rendered, unless the plaintiff or his attorney shall first make and file with the clerk an affidavit that the defendant has not, subject to execution, sufficient property, real or personal, in any county in said district to satisfy the judgment, but that he has property subject to execution in some other county or counties. But after an execution has been returned "no property found," in the district or county in which judgment was rendered, an execution may be issued to any county out of said district, upon the plaintiff or his attorney making oath that the defendant has property subject to execution in such county. When it requires the delivery of real or personal property, it shall be issued to the sheriff of the county where the property, or some part thereof, is situated.

§ 7. **When Writ Returnable.**—SEC. 242. The sheriff shall indorse upon a writ of execution the time when he received the same, and such execution shall be returnable within ninety days after its date to the clerk who issued the same.

§ 8. **What Property Liable to Execution.**—SEC. 245. All property, real and personal, of the judgment debtor, not exempt by law, shall be liable to execution.

CHAPTER LXIX.

§ 9. **Extent of Lien on Property Held in Common.**—SEC. 493. When a defendant in execution owns real estate subject to execution jointly or

in common with any other person the judgment shall be a lien, and the execution be levied upon the interest of the defendant only. \* \* \*

**No. 247.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XXIV.

§ 2. **Levy: How Made.**—SEC. 266. It shall be the duty of every sheriff into whose hands an execution may come from the district or supreme courts, before he shall proceed to execute the same, to present it to the auditor of the county for record in the "execution docket." And he shall present to the auditor, for a like purpose, copies of all levies and proceedings made and had by him under and by virtue of said execution.

CHAPTER XXVI.

§ 3. **When Writ May Issue.**—SEC. 271. The party in whose favor the judgment is given, may, at any time within five years thereafter, issue a writ of execution for its enforcement, as prescribed by law.<sup>2</sup>

§ 4. **Kinds of Executions.**—SEC. 274. There shall be four kinds of executions; one against the property of the judgment debtor; \* \* \* the third for the delivery of the possession of real or personal property, or such delivery with damages for withholding the same; \* \* \*

§ 5. **Writ: To Whom Directed—Substance of—What Shall Require.**—SEC. 275. The writ of execution shall be issued in the name of the United States, sealed with the seal of the court, and subscribed by the clerk, and shall be directed to the sheriff of the county in which the property is situated, or coroner, when the sheriff is a party or interested, and shall intelligibly refer to the judgment, stating the court, the district or county where the judgment was rendered, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and shall require the sheriff substantially as follows: (1) If it be against the property of the judgment debtor, it shall require the sheriff to satisfy the judgment, with interest, out of the personal property of the debtor, and if sufficient personal property cannot be found, out of his real property, upon which the judgment is a lien. (2) If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property or trustees, it shall require the sheriff to satisfy the judgment, with interest, out of such property. \* \* \* (4) If it be for the delivery of the possession of real or personal property, it shall require the sheriff to deliver the possession of the same, particularly describing it to the party entitled thereto, and may at the same time require the sheriff to satisfy any charges, damages, or rents and profits, recovered by the same judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered, to be specified therein. If a delivery thereof cannot be had, and if sufficient personal property cannot be found, then out of his real property. \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 135, 139, 193.) In effect from date. For repealing clause see No. 118, §3.

<sup>2</sup> See Nos. 223 and 221, *supra*.

<sup>4</sup> See Nos. 249, 250, 251, *infra*.

<sup>6</sup> See No. 251, *infra*.

§ 6. **In What Case May Issue to Another County.**—SEC. 276. When the execution is against the property of the judgment debtor it may be issued to the sheriff of any county in this Territory, but it shall not be issued in the first instance to the sheriff of any county out of the district in which the judgment is rendered, unless the plaintiff or his attorney shall first make and file with the clerk an affidavit that the defendant has not, subject to execution, sufficient property, real or personal, in any county in said district to satisfy the judgment, but that he has property subject to execution in some other county or counties. But after an execution has been returned "no property found," in the district or county in which judgment was rendered, an execution may be issued to any county outside of said district upon the plaintiff or his attorney making oath that the defendant has property subject to execution in such county. When it requires the delivery of real or personal property, it shall be issued to the sheriff of the county where the property, or some part thereof, is situated.

§ 7. **When Writ Returnable.**—SEC. 277. The sheriff shall indorse upon a writ of execution the time when he received the same, and such execution shall be returnable within sixty days after its date, to the clerk who issued the same. \* \* \*

§ 8. **What Property Liable to Execution.**—SEC. 280. All property, real and personal, of the judgment debtor not exempt by law, shall be liable to execution.

§ 9. **Assigned Judgments: How Writ Shall Issue.**—SEC. 281. In all cases in which a judgment has been recovered in any of the courts of this Territory, and shall have been assigned to any person, execution may issue in the name of the assignee upon the assignment being recorded in the execution docket by the clerk of the court in which the judgment is recovered, and the provisions of this section shall extend to all judgments heretofore recovered as well as to those hereafter to be recovered. \* \* \*

CHAPTER LII.

§ 10. **Extent of Lien on Property Held in Common.**—SEC. 540. When a defendant in execution owns real estate subject to execution, jointly or in common with any other person, the judgment shall be a lien, and the execution be levied upon the interest of the defendant only. \* \* \*

\* See No. 248, *infra*.

\* See Nos. 249, 250, 251, *infra*.

**No. 248.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 79, chap. 29, secs. 320, 323 to 326, inclusive, 329, 330; p. 172, chap. 62, sec. 694.) This No. is *verbatim* as No. 247, *supra*, except § 7 of said No. at \* instead of "of" read "or." For repealing clause see Nos. 119 and 118, § 3.

**No. 249.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 82, chap. 29, secs. 318, 321 to 324, inclusive, 327, 328; p. 176, chap. 62, sec. 692.) This No. is *verbatim* as No. 247, *supra*, except § 5 of said No. at \* "the" is omitted, and § 6 at \* instead of "of" read "or," and § 9 at \* instead of "and" read "which." For date when in effect and repealing clause see No. 121, § 3.



**No. 250.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 67, chap. 29, secs. 328, 331 to 334, inclusive, 337, 338, p. 151, chap. 61 sec. 757.) This No. is *verbatim* as No. 247, *supra*, except § 5 of said No. at 4 "the" is omitted, at 6 instead of "to be" read "shall be," and § 7 at 2 instead of "and" read "which." For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 251.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35, 87, chap. 30, secs. 325, 327 to 330, inclusive, 333, 334, p. 154, chap. 61 sec. 751.) This No. is *verbatim* as No. 247, *supra*, except § 5 of said No. at 4 "the" is omitted, at 6 instead of "to be" read "shall be," and § 7 at 2 instead of "a writ of" read "the writ or," and § 9 at 2 instead of "and" read "which." For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

**No. 252.—AN ACT TO AMEND SECTION 334 OF THE CODE OF WASHINGTON TERRITORY, IN RELATION TO EXECUTIONS.<sup>1</sup>**

**§ 1. Assigned Judgment: How Writ Shall Issue.**—*Be it enacted, etc.* SECTION 1. That section 334<sup>2</sup> of the Code of Washington Territory be and the same is amended so as to read: Sec. 334. In all cases in which a judgment has been recovered in any of the courts of this Territory, which shall have been assigned to any person, execution may issue in the name of the assignee, upon the assignment being recorded in the execution docket, by the clerk of the court in which the judgment is recovered, and in all cases in which a judgment has been recovered in any such court, and the person in whose name execution might have issued, dies, execution may issue in the name of the executor, administrator or legal representative of such deceased person, upon the letters testamentary or of administration, or other sufficient proof being filed in said cause and minuted upon said execution docket by the clerk of the court in which said judgment is entered, and upon an order of said court or the judge thereof, which may be made on an *ex parte* application, and the provisions of this section shall extend to all judgments heretofore recovered, as well as to those hereafter to be recovered, and to cases of persons now deceased as well as to those who may hereafter die.

\* \* \* \* \*

<sup>1</sup>Approved Jan. 30, 1886. (See Tenth Bien. Sess. 1885-86, p. 75.) In effect from date.

<sup>2</sup>See Nos. 251 and 247, § 9, *supra*.

**No. 253.—AN ACT TO PROVIDE FOR AND REGULATE THE ISSUING OF EXECUTIONS IN THIS TERRITORY.<sup>1</sup>**

**§ 1. When Writ May Issue.**—*Be it enacted, etc.* SECTION 1. That the party in whose favor judgment has been given, or may hereafter be given or entered in any court of record in this Territory, may have an execution issued at any time for the collection or enforcement of the same: *Providing*, That if a period of five years shall have elapsed without an execution being issued on such judgment, then execution shall not issue thereafter until such judgment shall be revived in the manner provided for by law.\*

<sup>1</sup>Approved Jan. 27, 1888. (See Eleventh Bien. Sess. 1887-8, p. 94.)

<sup>2</sup>See No. 227, *supra*.

§ 2. **Venue of Writ.**—SEC. 2. That the party in whose favor judgment has been rendered, entered or given in any court of record in this Territory for the recovery of money or against the property of a judgment debtor, may have execution issued thereon for the collection or enforcement of such judgment to the sheriff of any county in this Territory: *Provided*, That when a judgment requires the delivery of real or personal property, execution shall be issued to the sheriff of the county where the property, or some part thereof, is situated.

§ 3. **Date in Effect.**—SEC. 3. This act shall take effect and be in force thirty days from its passage and approval.

(B) SALE OF PROPERTY UNDER EXECUTION.

**No. 254.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXIX.

§ 2. **Notice of Sale.**—SEC. 260. Before the sale of property on execution, notice thereof shall be given as follows: (1) In case of personal property, by posting written or printed notice of the time and place of sale. \* \* \* (2) In case of real property, by posting a similar notice, particularly describing the property, in three public places of the county where the property is situated, one of which shall be where the property is to be sold, for four weeks prior to the day of sale, and publishing a copy thereof once a week for the same period in a newspaper of the county, if there be one, or if there be none, then in a newspaper of the Territory, published nearest the place of sale.

§ 3. **Time of Sale, and How and What Sold.**—SEC. 261. All sales of property under execution shall be made by auction between nine o'clock in the morning and four o'clock in the afternoon; after sufficient property has been sold to satisfy the execution, no more shall be sold; neither the officer holding the execution, nor his deputy, shall become a purchaser, or be interested in any purchase at such sale. \* \* \* and when the sale is of real property and consisting of several known lots or parcels, they shall be sold separately, or when a portion of such real property is claimed by a third person, and he requires it to be sold separately, such portion shall be thus sold. Sales of real property shall be made on the premises, if occupied by the defendant, or any person holding under him, otherwise such sales shall be made at the court house door.

§ 4. **Manner of Sale.**—SEC. 262. The form and manner of sale of real estate by execution shall be as follows: The sheriff shall proclaim aloud at the place of sale in the hearing of all the bystanders, "I am about to sell the following tracts of real estate (here reading the description) upon the following execution (here reading the execution)." He shall also state the amount \* which he is required to make upon the execution, which shall include damages, interest and costs up to the day of sale, and increased costs. If town property, and divided into two or more known lots, he shall ask: (1) Who will pay this debt for a seven years' lease of all these lots? If there is a bidder, he shall then inquire (2) Who will pay the debt for a seven years' lease of any less number of lots than the whole? If there is a bidder, he shall inquire in respect to the smallest number of lots for a lease of which any bidder is willing to pay the debt.

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 180.) For repealing clause see No. 115, § 2.

\* See No. 256, *infra*.

(8) Who will pay this debt for the lease for<sup>11</sup> the least period of time\* If other lands, and divided into known tracts or parcels, he shall make similar inquiries concerning the whole and the several parcels, and the separate acres in each parcel. If a single tract of land, he shall make similar inquiries concerning the whole, and the number of acres. If there is no bidder who is willing to pay the debt for such lease of the whole or of any part known as separate lots, parcels or acres, he shall then inquire who will pay the debt for the whole, or any known part, in lots, parcels or acres, as the case may require. If he shall have a bidder, he shall then offer for sale to the highest bidder above the debt, the lowest number of lots, or parcels, or acres, for which any one is willing to pay the debt. If he has no bid for the whole, or any portion equal to the amount of the debt, he shall then offer the land for sale, the lots and parcels separately or together, as he shall deem most advantageous. All land, except town lots, shall be sold by the acre.

§ 5. **When a Portion Sold, How Measured Off.**—SEC. 263. Where<sup>1</sup> the land is sold by the acre, and any less number of acres than the whole tract or parcel is sold, it shall be measured off to the purchaser in a square form, from the northeast corner of the tract or parcel, unless some person having an interest in the land shall, at the sale or prior thereto, and before the bidding is made, request that the land sold shall be taken from some other part, or in some other form, in such case, if such request is reasonable, the officer making the sale shall sell accordingly.

§ 6. **When Entire Tract Sold, No Measurement Necessary.**—SEC. 264. When any<sup>2</sup> entire tract or parcel is sold by the acre, it shall not be measured, but shall be deemed and taken to contain the number of acres named in the description and be paid for accordingly, and where<sup>2</sup> the number of acres is not contained in the description the officer shall declare according to his judgment how many acres are contained therein, which shall be deemed and taken to be the true number of acres.

§ 7. **To be Sold to Best Bidder.**—SEC. 265. The officer shall strike off the land to the best bidder,<sup>4</sup> who shall forthwith pay the money bid to the officer, who shall return the money with the execution and his doings thereon to the clerk of the court from which the execution issued, according to the order thereof.

§ 8. **Confirmation of Sale by Court.**—SEC. 266. Upon the return of any sale of real estate as aforesaid, the clerk shall enter the cause on which the execution issued by its title in the docket of the term next after such return, and mark opposite the same "sale of land for confirmation," and if no objection is made, the court, at such term, shall confirm such sale and order the officer to make out and deliver to the purchaser a deed or release of the land sold as the case may require. If the court shall be satisfied that by any irregularity of the officer or from any cause injustice has been done, the court shall set aside the sale or lease and order a new execution. When the sale is confirmed the money shall be paid to those entitled thereto. When the sale is set aside the money shall be repaid to the purchaser.

§ 9. **Record of Lease or Deed.**—SEC. 267. The party to whom such lease or deed is given, shall, upon the receipt thereof, take the same to the clerk of the district court of the county<sup>5</sup> where the land lies [or to which said county is attached for judicial purposes<sup>6</sup>], who shall enter in his book of levies, where the levy is recorded, what disposition has been made of such portion of the<sup>12</sup> real estate, and shall endorse the fact upon the deed or lease, with the date when presented to him, and when made. And no recorder<sup>7</sup> shall record any such deed or lease without such endorsement.

\* \* \* \* \*  
2 3 4 5 6 7 See Nos. 255, 256, *infra*. (The [ ] shown at \* do not appear in this act; they are inserted for convenient reference.)

11 12 See No. 256, *infra*.



§ 10. **Sheriff May Postpone Sale.**—SEC. 269. If, at the time appointed for the sale, the sheriff should be prevented from attending at the place appointed or, being present, should deem it for the advantage of all concerned to postpone the sale for want of purchasers or other sufficient cause,<sup>a</sup> he may postpone the sale not exceeding one week next after the day appointed, and so from time to time for like cause,<sup>a</sup> giving notice of every adjournment by public proclamation, made at the same time, not exceeding the life of the execution.

\* \* \* \* \*

§ 11. **Lease and Sale Absolute.**—SEC. 271. The lease and sale of real estate under execution after the same is confirmed, shall be absolute.

§ 12. **Contribution.**—SEC. 272. Where property liable to an execution against several persons is sold thereon, and more than a due proportion of the judgment is levied upon the property of one of them, or one of them pays without a sale more than his proportion, he may compel contributions from the others; and when a judgment is against several, and is upon an obligation or contract of one of them as security for another, and the surety pays the amount, or any part thereof, either by sale of his property or before sale, he may compel repayment from the principal. In such cases the person so paying or contributing shall be entitled to the benefit of the judgment to enforce contribution or repayment, if within thirty days after his payment he file with the clerk of the court where the judgment was rendered notice of his payment and claim to contribution or repayment; upon filing such notice, the clerk shall make an entry thereof in the margin of the docket where the judgment is entered.

\* \* \* \* \*

<sup>a</sup> See Nos. 255, 256, *infra*.

**No. 255.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 57, chap. 27, secs. 254 to 261, inclusive, 263, 265, 266.) This No. is *verbatim* as No. 254, *supra*, except §§ 5, 6 of said No. at 2 instead of "where" read "when," and § 6 at 2 instead of "any" read "an," and § 7 at 4 instead of "best bidder" read "highest bidder," and § 9 at 5 instead of "the county" read "the district or county," and at 6 that part included in [ ] is omitted, and at 7 instead of "recorder" read "county auditor," and § 10 at 8 for "cause" read "causes." For repealing clause see No. 117, § 2.

**No. 256.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 147, chap. 30, sec. 297 to 304, inclusive, 306, 308, 309.) This No. is *verbatim* as No. 254, *supra*, except § 4 of said No. at 2 instead of "which he is required to make" read "which is required to be made," and at 11 instead of "for" read "of," and §§ 5, 6 at 2 instead of "where" read "when," and § 6 at 2 instead of "any" read "an," and § 7 at 4 instead of "best bidder" read "highest bidder," and § 9 at 5 instead of "the county" read "the district or county," and at 6 that part included in [ ] is omitted, and at 12 "the," is omitted, and at 7 instead of "recorder" read "county auditor," and § 10 at 8 instead of "cause" read "causes." In effect from date. For repealing clause see No. 118, § 3.

**No. 257.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE IN CIVIL ACTIONS IN THE DISTRICT COURT."<sup>1</sup>**

§ 1. **To be Sold to Highest Bidder—Confirmation.**—SECTION 1. *Be it enacted, etc.*, That section three hundred and two of an act entitled "An act to regulate the practice in civil actions in the district court," passed

<sup>1</sup> Approved Jan. 9, 1868. (See First Bien. Sess. 1867-68, p. 56.)

January 28, 1863, be so amended as to read as follows: Sec. 302. The officer shall strike off the land to the highest bidder, who shall forthwith pay the money bid to the officer, who shall return the money with his execution and his doings thereon to the clerk of the court from which the execution issued, according to the order thereof: *Provided, however.* That when final judgment shall have been entered in the supreme court and the execution upon which sale has been made has issued from said court, the proceedings on said execution and return shall be docketed for confirmation in the district court in which said action was originally commenced, in the same manner as though said execution originally issued from said district court.

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**No. 258.—AN ACT TO ENFORCE JUDGMENTS UPON CONTRACTS ACCORDING TO THEIR TRUE INTENT AND MEANING.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Certificate of Sales Shall State Kind of Money.**—SEC. 5. The certificate of sale of real property on an execution to enforce a judgment or decree for a specified kind of money, shall state the kind of money received on such sale, and the notices of sale shall specify the kind of money in which bids may be made at such sale, which shall be the same as that specified in the judgment or decree, and the sheriff shall state in his return the kind of money received.

§ 3. **Redemption: Legal Tender.**—SEC. 6. The purchaser at a sale of real property for a specified kind of money shall be entitled to receive from the redemptioner, and redemptioners from each other, the kind of money specified in the certificate of sale: *Provided,* That no money shall be received in satisfaction of a judgment or decree for a specified kind of money or upon an execution to enforce the same, other than the kind of money specified in such judgments, decree or execution: *Provided further,* That the gold and silver coins of the United States, to the respective amounts for which they are legal tenders, shall be received at their nominal values in payment of every such contract or liability, and of every such judgment, decree or execution.

\* \* \* \* \*

<sup>1</sup> Passed Nov. 23, 1869. (See Second Bien. Sess. 1869, p. 416.) In effect from date.

**No. 259.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXXIII.

§ 2. **How Writ Executed.**—SEC. 351. When the writ of execution is against the property of the judgment debtor, it shall be executed by the sheriff as follows: (1) If property has been attached, he shall endorse on the execution and pay to the clerk forthwith the amount, if any,<sup>2</sup> of the proceeds of sales of perishable property or debts due the defendant received by him sufficient to satisfy the judgment. (2) If the judgment is not then satisfied and property has been attached and remains in his cus-

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 91.) For repealing clause see Nos. 119 and 118, § 3.

<sup>2</sup> See No. 265, *infra*.

today, he shall sell the same or sufficient thereof to satisfy the judgment. (3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, he shall levy on the property of the judgment debtor sufficient to satisfy the judgment. (4) Property shall be levied on in like manner and with like effect as similar property is attached.† \* \* \* (5) When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the execution may be levied on other property of the judgment debtor without delay. \* \* \*

§ 3. **Notice of Sale.**—SEC. 355. Before the sale of property on execution, notice thereof shall be given as follows: (1) In case of personal property, by posting written or printed notice of the time and place of sale \* \* \* (2) In case of real property, by posting a similar notice particularly describing the property, for four weeks successively in three public places of the county where the property is to be sold, and publishing a copy thereof once a week for the same period in a newspaper of the county, if there be one, or if there be none, then in a newspaper published nearest to the place of sale.

§ 4. **Time of Sale—How and What Sold.**—SEC. 356. All sales of property upon execution shall be made by auction between nine o'clock in the morning and four o'clock in the evening. After sufficient property has been sold to satisfy the execution, no more shall be sold. Neither the officer holding the execution nor his deputy shall become a purchaser or be interested in any purchase at such sale. \* \* \* When the sale is of real property and consisting of several known lots or parcels, they shall be sold separately or otherwise as is likely to bring the highest price, or when a portion of such real property is claimed by a third person, and he requires it to be sold separately, such portions shall be sold separately. Sales of real property shall be made at the court house door.

§ 5. **Sheriff May Postpone Sale.**—SEC. 357. If at the time appointed for the sale the sheriff should be prevented from attending at the place appointed, or being present should deem it for the advantage of all concerned to postpone the sale for want of purchasers or other sufficient cause, he may postpone the sale not exceeding one week next after the day appointed, and so from time to time for the like cause, giving notice of every adjournment by public proclamation made at the same time.\* The sheriff for like causes may also adjourn the sale from time to time not exceeding thirty days beyond the day at which the writ is made returnable, with the consent of the plaintiff endorsed upon the writ. \* \* \*

§ 6. **Manner of Sale.**—SEC. 359. The form and manner of sale of real estate by execution shall be as follows: The sheriff shall proclaim aloud at the place of sale in the hearing of all the by-standers: "I am about to sell the following tracts of real estate [here reading the description] upon the following execution [here reading the execution]:" He shall also state the amount which he is required to make upon the execution, which shall include damages, interests and costs up to the day of sale, and increased costs. He shall then offer the land for sale, the lots and parcels separately or together, as he shall deem most advantageous. All land except town lots shall be sold by the acre.

§ 7. **When a Portion Sold, How Measured Off.**—SEC. 360. When the land is sold by the acre and any less number of acres than the whole tract or parcel is sold, it shall be measured off to the purchaser in a square form from the northeast corner of the tract or parcel, unless some person having an interest in the land shall at the sale or prior thereto and before

\* \* See No. 265, *infra*.

† See No. 163, § 6, *supra*.

the bidding is made, request that the land sold shall be taken from some other part or in some other form; in such case, if such request is reasonable, the officer making the sale shall sell accordingly.

**§ 8. When Entire Tract Sold, No Measurement Necessary.**—SEC. 361. When an entire tract or parcel<sup>2</sup> is sold by the acre it shall not be measured but shall be deemed and taken to contain the number of acres named in the description, and be paid for accordingly; and when the number of acres is not contained in the description, the officer shall declare according to his judgment how many acres are contained therein, which shall be deemed and taken to be the true number of acres.

**§ 9. To be Sold to Highest Bidder.**—SEC. 362. The officer shall strike off the land to the highest bidder, who shall forthwith pay the money bid to the officer, who shall return the money with his execution and his doings thereon to the clerk of the court from which the execution issued, according to the order thereof: *Provided, however,* That when final judgment shall have been entered in the supreme court and the execution upon which sale has been made issued from said court, the proceedings on execution and return shall be docketed for confirmation in the district court in which the action was originally commenced, and like proceedings shall be had as though said execution had issued from the said district court.

**§ 10. Confirmation of Sale.**—SEC. 363. Upon the return of any sale of real estate as aforesaid, the clerk shall enter the cause on which the execution issued by its title in the docket of the term next after such return, and mark opposite the same "sale of land for confirmation," and the following proceedings shall be had: (1) The plaintiff shall be entitled, on motion therefor, to have an order confirming the sale at the term next following the return of the execution, or if it be returned in term time, then at such term, unless the judgment debtor, or in case of his death, his representatives shall file with the clerk ten days before such term, or if the writ be returned in term time, then five days after the return thereof his objections thereto. (2) If such objections be filed the court shall notwithstanding allow the order confirming the sale, unless on the hearing of the motion it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case the court shall disallow the motion and direct that the property be resold in whole or in part, as the case may be, as upon an execution received of that date. (3) Upon the return of the execution, the sheriff shall pay the proceeds of the sale to the clerk, who shall then apply the same or so much thereof as may be necessary, in satisfaction of the judgment. If an order of re-sale be afterwards made, and the property sell for a greater amount to any person other than the former purchaser, the clerk shall first repay to such purchaser the amount of his bid out of the proceeds of the latter sale. (4) Upon a resale the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken except for a greater amount. If the motion to confirm be not heard and decided at the term at which it is made, it may be continued and heard and determined before the judge, or at any term thereafter. An order confirming a sale shall be a conclusive determination of the regularity of the proceedings concerning such sale as to all persons in any other action, suit or proceeding whatever. (5) If after the satisfaction of the judgment, there be any proceeds of the sale remaining, the clerk shall pay such proceeds to the judgment debtor or his representative, as the case may be, at any time before the order is made upon the motion to confirm the sale, provided such party file with the clerk a waiver of all objections made or to be made to the proceedings concern-

<sup>2</sup> See Nos. 361, 363, 365, *infra*.



ing the sale; but if the sale be confirmed, such proceeds shall be paid to such party of course, otherwise they shall remain in the custody of the clerk until the sale of the property has been disposed of.

\* \* \* \* \*

§ 11. **Contribution.**—SEC. 365. When property liable to an execution against several persons is sold thereon, and more than a due proportion of the judgment is levied upon the property of one of them, or one of them pays without a sale more than his proportion, he may compel contributions from the others; and when a judgment is against several, and is upon an obligation or contract of one of them as security for another, and the surety pays the amount or any part thereof either by sale of his property or before sale, he may compel repayment from the principal. In such case the person so paying or contributing shall be entitled to the benefit of the judgment to enforce contribution or repayment, if within thirty days after his payment he file with the clerk of the court where the judgment was rendered notice of his payment and claim to contribution or repayment. Upon filing such notice, the clerk shall make an entry thereof in the margin of the docket where the judgment is entered.

\* \* \* \* \*

**No. 260.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS," APPROVED DECEMBER 2, 1869.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Confirmation of Sale by Court.**—SEC. 6. The first paragraph of section 363<sup>2</sup> of the act to which this is amendatory shall be amended so as to authorize, in addition to the judgment debtor or his representatives, any person who may be interested in the said property to likewise appear and file his objections thereto and be heard thereon. The following portion of paragraph four of said section is hereby repealed, viz.: "An order confirming a sale shall be a conclusive determination of the regularity of the proceedings concerning such sale as to all persons in any other action, suit or proceeding whatever."

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 3.) For repealing clause see No. 120, § 3.

<sup>2</sup> See § 10 of No. 259, *supra*.

**No. 261.**—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 94, chap. 33, secs. 347, 353 to 355, inclusive, 357 to 361, inclusive, 363.) This No. is *verbatim* as No. 259, *supra*, except § 8 of said No. at <sup>2</sup> after "parcel" read "of land." For repealing clause see No. 121, § 3.

**No. 262.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS," APPROVED NOVEMBER 13, 1873.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

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§ 2. **Confirmation of Sale.**—SEC. 25. Chapter XXXIII, title "Sales of property under execution,"<sup>2</sup> shall be amended to read as follows: "Sec. 361. Upon the return of any sale of real estate as aforesaid, the

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 3.)

<sup>2</sup> See Nos. 261 and 259, § 10, *supra*.

clerk shall enter the cause on which the execution issued by its title in the docket of the term next after such return, and mark opposite the same, "sale of land for confirmation," and the following proceedings shall be had: (1) The plaintiff shall be entitled, on motion therefor, to have an order confirming the sale at the term next following the return of execution, or if it be returned in term time, then at such term, unless the judgment debtor, or in case of his death, his representatives, shall file with the clerk ten days before such term, or if the writ be returned in term time, then five days after the return thereof, his objections thereto. (2) If such objections be filed the court shall, notwithstanding, allow the order confirming the sale, unless on the hearing of the motion it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case the court shall disallow the motion and direct that the property be resold in whole or in part, as the case may be, as upon an execution received of that date. If the motion to confirm be not heard and decided at the term at which it was made, it may be continued and heard and determined before the judge at chambers or at any subsequent term. (3) Upon the return of the execution the sheriff shall pay the proceeds of the sale to the clerk, who shall then apply the same or so much thereof as may be necessary in satisfaction of the judgment. If an order of resale be afterwards made, and the property sell for a greater amount to any person other than the former purchaser, the clerk shall first repay to such purchaser the amount of his bid out of the proceeds of the latter sale. (4) Upon a resale the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken except for a greater amount. (5) If, after the satisfaction of the judgment, there be any proceeds of the sale remaining, the clerk shall pay such proceeds to the judgment debtor or his representative, as the case may be, at any time before the order is made upon the motion to confirm the sale, provided such party file with the clerk a waiver of all objections made or to be made to the proceedings concerning the sale, but if the sale be confirmed, such proceeds shall be paid to such party of course, otherwise they shall remain in custody of the clerk until the sale of the property has been disposed of."

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**No. 263. AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 76, chap. 33, secs. 358, 362 to 364, inclusive, 366 to 370, inclusive, 372.) This No. is *verbatim* as No. 259, *supra*, except § 8 of said No. at \* after "parcel" read "of land." For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 264.—AN ACT TO REGULATE ACTIONS OR PROCEEDINGS TO RECOVER OR AFFECTING REAL ESTATE.<sup>1</sup>**

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§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. Deed: Who Shall Execute to Purchaser. SEC. 4. In all cases where real estate has been or may hereafter be sold in pursuance of law by virtue of an execution or other process, it shall be the duty of the sheriff or other officer making such sale, if the land be not redeemed according to law,<sup>2</sup> to execute and deliver upon demand to the purchaser or other

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 134.) All necessarily inconsistent acts or parts of acts repealed.

<sup>2</sup> See Nos. 278, and 276, *infra*.

person entitled to the same, a deed of conveyance of the real estate so sold, upon payment of his fees for the same, or in case the term of office of the sheriff or other officer making such sale shall have expired before a sufficient deed shall have been executed, then the incumbent of such office at the time such deed shall be demanded shall execute a deed of the premises so sold and unredeemed to the purchaser or person entitled to the same, and such deed shall be as valid and effectual to convey to the grantee the lands or premises so sold as if the same had been made by the sheriff or other officers making the sale.

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**No. 265.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35, 94, chap. 34, secs. 375, 353, 360, 361, 363 to 367, inclusive, 369.) This No. is *verbatim* as No. 259, *supra*, except § 2 of said No. at the words "if any" are omitted, and § 4 at 4 instead of "evening" read "afternoon," and at 5 after "time" read as follows: "and by posting written notices of such adjournment under the notices of sale originally posted by him;" § 8 at 2 after "parcel" read "of land." For date when in effect and repealing clause see Nos. 338, 339, 340.

(See *ibid.*, p. 300, sec. 379. Compare No. 264, *supra*.) "In all cases where real estate has been or may hereafter be sold, in pursuance of law, by virtue of an execution or other process, it shall be the duty of the sheriff or other officer making such sale to execute and deliver to the purchaser, or other person entitled to the same, a deed of conveyance of the real estate so sold, as follows: (1) When such other execution or process issues upon an ordinary money judgment, such sheriff or other officer shall execute and deliver such deed within six months after the confirmation of such sale. (2) When such execution or other process issues upon a decree for the foreclosure of a mortgage, such sheriff or other officer shall execute and deliver such deed within five days after the confirmation of such sale. (3) In case the term of office of the sheriff or other officer making such sale shall have expired before a sufficient deed has been executed, then the successor in office of such sheriff or other officer shall, within the time specified in this act, execute and deliver to the purchaser or other person entitled to the same, a deed of the premises so sold; and such deed shall be as valid and effectual to convey to the grantee the lands or premises so sold, as if the deed had been made by the sheriff or other officer who made the sale."

CHAPTER VII.—EXEMPTIONS.

**No. 266.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXVII.

§ 2. **Certain Property of Married Woman.**—SEC. 252. All real and personal estate to which any married woman shall hereafter become entitled to in her own right, and all which may at the time of her marriage belong to her, and all the issues, rents and profits of such real estate, shall not be liable to attachment for or execution upon any liability of a judgment against the husband so long as she or any minor heir of her body shall be living: *Provided*, That her separate property shall not be exempt from attachment or execution where<sup>2</sup> the debts were owing by the wife previous to marriage, or may have been contracted for her benefit.

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 178.) For repealing clause see No. 115, § 2.

<sup>2</sup> See No. 267, *infra*.

§ 3. **Dwellings, etc.**—SEC. 258. The following property shall be exempt from execution, except as herein otherwise specially provided: (1) Dwellings and other buildings to the value of five hundred dollars. \* \* \* but no article of property mentioned in this section shall be exempt from an execution issued on a judgment recovered for its price, or upon a mortgage thereon, or for any tax levied thereon.

§ 4. **Defendant May Select.**—SEC. 254. In all cases the defendant himself may select the property which is exempt.

**No. 267.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 54, chap. 25, secs. 246, 247, 248.) This No. is verbatim as No. 266, *supra*, except at 2 of said No. instead of "where" read "when." For repealing clause see No. 117 § 2.

**No. 268.—AN ACT EXPLANATORY OF THE 246TH AND 247TH SECTIONS OF AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS." PASSED JANUARY, 1860.<sup>1</sup>**

§ 1. **Certain Property of Married Woman.**—SECTION 1. *Be it enacted, etc.,* That section 246<sup>2</sup> of an act entitled "An act to regulate the practice and proceedings in civil actions in the district courts," passed January, 1860,<sup>3</sup> be so construed as to mean: All real and personal estate to which any married woman may have a title at the time of her marriage, and all real and personal estate to which she may become entitled in her own right subsequent to her marriage, and all the issues, rents and profits of such estate, shall not be liable to attachment for or execution upon any liability of a judgment against the husband so long as she or any minor heir of her body shall be living: *Provided*, That her separate property shall not be exempt from attachment or execution when the debts were owing by the wife previous to her marriage, or may have been contracted by her for the benefit of herself and family.

§ 2. **Dwellings, etc.**—SEC. 2. Section 247<sup>4</sup> of said act<sup>2</sup> shall be so construed as to mean. The following property shall be exempt from execution and attachment, except as herein otherwise specially provided: dwellings and other buildings, together with the lot or lots or ground upon which they stand, to the value of five hundred dollars; \* \* \* but no article of property mentioned in this section shall be exempt from an execution issued on a judgment recovered for its price, or upon a mortgage thereon, or for any tax levied thereon: *Provided*, That no mortgage made by a married man of any property exempted from execution by the foregoing provisions shall be of any validity unless the wife shall join in said mortgage, and the same be witnessed and acknowledged by her, as is required in case of a deed conveying her interest in real estate

<sup>1</sup> Passed Jan. 29, 1861. (See Eighth Reg. Sess. 1860-61, p. 42.) There appears a separate act on this subject, enacted at this session (See No. 269, *infra*.)

<sup>2</sup> Sec. 246 is verbatim as § 2 of No. 266, *supra*.

<sup>3</sup> See No. 267, *supra*.

<sup>4</sup> Sec. 247 is verbatim as § 3 of No. 266, *supra*.

**No. 269.—AN ACT EXEMPTING CERTAIN PROPERTY FROM EXECUTION AND ATTACHMENT.<sup>1</sup>**

§ 1. **Certain Property of Married Woman.**—SECTION 1. *Be it enacted, etc.,* That all real and personal estate belonging to any married woman at the time of her marriage, and all which she may have acquired subsequently to such marriage, or to which she shall hereafter become entitled in her own right, and all her personal earnings, and all the issues, rents and profits of such real estate, shall not be liable to attachment for or execution upon any liability or judgment against the husband so long as she or any minor heir of her body shall be living: *Provided,* That her separate property shall be liable for debts owing her at the time of her marriage.

§ 2. **Homestead.**—SEC. 2. The following property shall be exempt from execution or attachment, except as is hereinafter specially provided: (1) A homestead not exceeding five hundred dollars in value, to include the dwelling house and other buildings, and the land or lots upon which they stand. \* \* \* But no article of property mentioned in this section shall be exempt from an execution issued upon a judgment for its price, or upon a mortgage thereon, or for any tax levied thereon: *Provided,* That no mortgage made by a married man of any property exempted from execution and attachment in this act shall be of any validity, unless the wife shall join in said mortgage, and the same be witnessed and acknowledged by her as is required in case of a deed conveying her interest in real estate.

§ 3. **How Exemption May be Waived.**—SEC. 3. This act shall not be so construed as to prevent any single man, or a married man, his wife joining him in the waiver, from waiving, by agreement in writing, to any person or persons the benefit of this act: *Provided,* That any agreement of waiver made by a married man and his wife, shall be witnessed and acknowledged by them in the same manner required in case of a deed made by them conveying real estate.

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 30, 1861. (See Eighth Reg. Sess. 1860-61, p. 52.) See another act on this subject at this session, No. 268, *supra*. All conflicting acts or parts of acts repealed. In effect from date.

**No. 270.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 143, chap. 28, secs. 288, 289, 290.) This No. is *verbatim* as No. 269, *supra*. In effect from date. For repealing clause see No. 118, § 3.

**No. 271.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*  
 CHAPTER XXXI.

§ 2. **Certain Property of Married Woman.**—SEC. 337. All real and personal estate belonging to any married woman at the time of her marriage, and all which she may have acquired subsequently to such marriage, or to which she shall hereafter become entitled in her own right, and all her personal earnings, and all the issues, rents and profits of such real

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 85.) For repealing clause see No. 119 and 118, § 2.



estate, shall not be liable to attachment for or execution upon any liability or judgment against the husband, so long as she or any minor heir of her body shall be living: *Provided*, That her separate property shall be liable for debts owing by her at the time of her marriage.

§ 3. **Homestead: How Secured.**—SEC. 338. There shall be also exempt from execution and attachment to every householder being the head of a family, a homestead not exceeding in value the sum of one thousand dollars, while occupied as such by the owner thereof, or his or her family. Said homestead may consist of a house and lot or lots in any city, or of a farm consisting of any number of acres, so that the value of the same shall not exceed the aforesaid sum of one thousand dollars; but to entitle a person to the benefits of this act, he or she shall cause the word "homestead" to be entered of record in the margin of his recorded title to the same.<sup>1</sup>

§ 4. **Homestead: Heirs Entitled to.**—SEC. 339. When any person dies seized of a homestead leaving a widow, or husband, or minor children, the survivors shall be entitled to the homestead, but in case there be neither surviving husband, widow or children, the said homestead shall be liable for the debts of deceased.

§ 5. **Homestead: Mortgage of.**—SEC. 340. Nothing herein contained shall be construed to prevent the owner of a homestead from voluntarily mortgaging the same; but no mortgage shall be valid against the wife of any mortgagor who may be occupying said homestead with him, unless she shall freely and voluntarily, separate and apart from her husband, sign and acknowledge said mortgage, and the officer taking the acknowledgment shall fully apprise her of her rights and the effect of signing such mortgage.

§ 6. **Homestead: In What Case May be Sold.**—SEC. 341. When any creditor shall be of opinion that any homestead claimed under the provisions of this act is of greater value than one thousand dollars, on filing an affidavit to that effect with the clerk of the district court, the judgment creditor may proceed against said homestead as in other cases of real estate, and if the<sup>2</sup> said homestead shall sell for over one thousand dollars and costs, the surplus shall be applied to the payment of the judgment of said creditor, and in all such cases the sum of one thousand dollars, free of charge or expense, shall be paid to the owner of the homestead; and in case the said homestead shall not sell for more than one thousand dollars and costs, the person instituting the proceedings shall pay all costs of such proceeding, and the said proceeding cease and not affect or impair the rights of the owner of the homestead.

§ 7. **Subsequent Homestead Exempt.**—SEC. 342. In case of the sale of said homestead, any subsequent homestead acquired by the proceeds thereof, shall also be exempt from attachment and execution, nor shall any judgment or other claim against the owner of such homestead be a lien against the same in the hands of a *bona fide* purchaser for a valuable consideration.

§ 8. **How Exemption May be Waived.**—SEC. 344. This act shall not be so construed as to prevent any single man, or a married man, his wife joining him in the waiver, from waiving, by agreement in writing, to any person or persons the benefit of this act. *Provided*, That any agreement of waiver made by a married man and his wife, shall be witnessed and acknowledged by them in the same manner required in case of a deed made by them conveying real estate.<sup>3</sup>

<sup>1</sup> See Nos. 272, 273, *infra*.

<sup>2</sup> See No. 273, *infra*.

**No. 272.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 69, chap. 31, secs. 335 to 340, inclusive, 342.) This No. is verbatim as No. 271, *supra*, except § 6 of said No. at 2 "the" is omitted, and at end of § 8 at 2 read as follows: "Provided, That nothing in this chapter shall be construed to exempt the property, real or personal, from attachment or execution of non-residents, or a person who has left or is about to leave the Territory for the purpose of defrauding his creditors." For repealing clause see No. 121, § 3.

**No. 273.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 71, chap. 31, secs. 345 to 350, inclusive, 352.) This No. is verbatim as No. 271, *supra*, except at end of § 8 of said No. at 4 add the words "and the date of such entry," and § 6 at 2 "the" is omitted, and at end of § 8 at 2 read as follows. "Provided, That nothing in this chapter shall be construed to exempt the property, real or personal, from attachment or execution of non-residents, or a person who has left or is about to leave the Territory for the purpose of defrauding his creditors." For date when in effect and repealing clause see No. 122, § 3, 4.

**No. 274.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XXXII.

§ 2. **Certain Property of Married Woman.**—SEC. 341. All real and personal estate belonging to any married woman at the time of her marriage, and all which she may have acquired subsequently to such marriage, or to which she shall hereafter become entitled in her own right, and all her personal earnings, and all the issues, rents and profits of such real estate, shall be exempt from attachment and execution upon any liability or judgment against the husband, so long as she or any minor heir of her body shall be living: *Provided*, That her separate property shall be liable for debts owing by her at the time of her marriage.

§ 3. **Homestead: Of What Consists.**—SEC. 342. There shall be also exempt from execution and attachment to every householder, being the head of a family, a homestead not exceeding in value the sum of one thousand dollars, while occupied as such by the owner thereof, or his or her family. Said homestead may consist of a house and lot or lots in any city, or of a farm, consisting of any number of acres, so that the value of the same shall not exceed the aforesaid sum of one thousand dollars. Such homestead may be selected at any time before sale.

§ 4. **Homestead: Heirs Entitled to.**—SEC. 343. When any person dies seized of a homestead, leaving a widow or husband, or minor children, the survivors shall be entitled to the homestead; but in case there be neither surviving husband, widow or children, the said homestead shall be liable for the debts of the deceased.

§ 5. **Homestead: Mortgage of.**—SEC. 344. Nothing herein contained shall be construed to prevent the owner of a homestead from voluntarily mortgaging the same; but no mortgage shall be valid against the wife of any mortgagor who may be occupying said homestead with him, unless she shall freely and voluntarily, separate and apart from her husband,

<sup>1</sup>Approved Dec. 2, 1881. (See Code 1881, pp. 35, 90.) For date when in effect and repealing clause see No. 338, 339, 340.



sign and acknowledge said mortgage; and the officer taking the acknowledgment shall fully apprise her of her rights and the effect of signing such mortgage.

§ 6. **Homestead: In What Case May be Sold.**—SEC. 345. When any creditor shall be of opinion that any homestead claimed under the provisions of this act is of greater value than one thousand dollars, on filing an affidavit to that effect with the clerk of the district court, the judgment creditor may proceed against said homestead as in other cases of real estate, and if said homestead shall sell for over one thousand dollars and costs, the surplus shall be applied to the payment of the judgment of said creditor, and in all such cases the sum of one thousand dollars, free of charge or expense, shall be paid to the owner of the homestead; and in case the said homestead shall not sell for more than one thousand dollars and costs, the person instituting the proceeding shall pay all costs of such proceeding, and the said proceeding cease and not affect or impair the rights of the owner of the homestead.

§ 7. **Subsequent Homestead Exempt.**—SEC. 346. In case of the sale of said homestead any subsequent homestead acquired by the proceeds thereof, shall also be exempt from attachment and execution, nor shall any judgment or other claim against the owner of such homestead be a lien against the same in the hands of a *bona fide* purchaser for a valuable consideration.

\* \* \* \* \*

§ 8. **How Exemptions May be Waived.**—SEC. 348. This chapter shall not be so construed as to prevent any single man, or married man, his wife joining him, from waiving, by agreement in writing, the benefit of this act: *Provided*, That any agreement of waiver made by a husband and wife shall be witnessed and acknowledged as required in case of a deed conveying real estate: *And provided also*, That nothing in this chapter shall be construed to exempt from attachment or execution the property, real or personal, of non-residents or a person who has left or is about to leave the Territory with the intent to defraud his creditors.

\* \* \* \* \*

**No. 275.—AN ACT TO AMEND SECTION 344 OF CHAPTER 32 OF THE CODE OF WASHINGTON TERRITORY, RELATING TO THE GIVING OF MORTGAGES ON REAL ESTATE OWNED AND OCCUPIED AS A HOMESTEAD.<sup>1</sup>**

§ 1. **Homestead: Mortgage of.**—*Be it enacted, etc.* SECTION 1. That section 344<sup>2</sup> of chapter 32 of the Code of Washington be and the same is hereby amend to read as follows: Sec. 344. Nothing herein contained shall be construed to prevent the owner of a homestead from voluntarily mortgaging the same. "But no such mortgage shall be valid against the wife of a mortgagor unless she shall sign and acknowledge the same."

§ 2. **Date in Effect.**—SEC. 2. This act shall take effect and be in force from and after the first day of March, 1888.

<sup>1</sup> Approved Jan. 31, 1888. (See Eleventh Bien. Sess. 1887-88, p. 162.)

<sup>2</sup> See No. 274, § 5, *supra*.

CHAPTER VIII.—REDEMPTION.

**No. 276.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XXXIII

§ 2. **In What Case Sale Absolute—Certificate.**—SEC. 866. Upon a sale of real property, when the estate is less than a leasehold of two years unexpired term, the sale shall be absolute. In all other cases such property shall be subject to redemption, as hereinafter provided in this chapter. At the time of sale the sheriff shall give to the purchaser a certificate of the sale, containing: (1) A particular description of the property sold. (2) The price bid for each distinct lot or parcel. (3) The whole price paid. (4) When subject to redemption it shall be so stated. The matters contained in such certificate shall be substantially stated in the sheriff's return of his proceedings upon the writ.

§ 3. **Who May Redeem.**—SEC. 867. Property sold subject to redemption, as provided in the last section, or any part thereof separately sold, may be redeemed by the following persons or their successors in interest: (1) The judgment debtor or his successor in interest in the whole or any part of the property separately sold. (2) A creditor having a lien by judgment, decree or mortgage on any portion of the property or any portion of any part thereof, separately sold subsequent in time to that on which the property was sold. The persons mentioned in subdivision two of this section are termed redemptioners.

§ 4. **Limitation and Terms of Redemption.**—SEC. 868. The judgment debtor or a redemptioner may redeem the property within six months from the date of the order confirming the sale by paying the amount of the purchase money, with interest at the rate of two per centum per month thereon from the time of sale, together with the amount of any taxes which the purchaser may have paid thereon, and if the purchaser be also a creditor having a lien prior to that of the redemptioner, the amount of such lien with interest.

§ 5. **Subsequent Redemption.**—SEC. 869. If the property be so redeemed by a redemptioner, either the judgment debtor or any other redemptioner may within sixty days from the last redemption again redeem it on paying the sum paid on the last redemption, with interest at the rate of two per centum per month thereon from the date of the last preceding redemption in addition, together with the amount of any taxes which the last redemptioner may have paid thereon, and unless his lien be prior to that of such redemptioner, the amount of such lien with interest. The property may be again, and as often as a debtor or a redemptioner is disposed, redeemed from the last previous redemptioner within sixty days from the date of the last redemption, on paying the sum paid on the last previous redemption, with interest at the rate of two per centum per month thereon from the date of such previous redemption, together with the amount of any taxes paid thereon by such last redemptioner and the

<sup>1</sup> Approved December 2, 1869. (See Second Hien Sess. 1869, pp. 3, 91.) For repealing clause see Nos. 119, 118, § 3.

<sup>2</sup> See No. 279, in/va.

amount of any liens held by such last redemptioner prior to his own, with interest. Notice of redemption shall be given to the sheriff.

§ 6. **If Not Redeemed, Deed May Issue.**—SEC. 370. If no redemption be made within six months from the confirmation of the sale, the purchaser shall be entitled to a conveyance from the sheriff, or if so redeemed, whenever sixty days shall have elapsed<sup>2</sup> and no other redemption has been made, the time for redemption shall have expired and the last redemptioner shall be entitled to a conveyance from the sheriff. If the judgment debtor redeem at any time before the time for redemption expires the effects of the sale shall be terminated<sup>3</sup> and he shall be restored to his estate.

§ 7. **Mode of Redemption.**—SEC. 371. The mode of redeeming shall be as provided in this section. (1) The person seeking to redeem shall give the purchaser or redemptioner, as the case may be, two days' notice of his intention to apply to the sheriff for that purpose. At the time and place specified in such<sup>4</sup> notice, such person may redeem by paying to the sheriff the sum required. The sheriff shall give the person redeeming a certificate as in case of sale on execution, adding therein the sum paid on redemption, from whom redeemed and the date thereof. A party seeking to redeem shall submit to the sheriff the evidence of his right thereto, as follows: (2) Proof that the notice required by this section has been given to the purchaser or redemptioner, or waived. (3) If he be a lien creditor, a copy of the docket of the judgment or decree under which he claims the right to redeem, certified by the clerk of the court where such judgment or decree is docketed, or if he seeks to redeem upon mortgage the certificate of the record thereof. (4) A copy of any assignment necessary to establish his claim, verified by the affidavit of himself or agent. [An affidavit by himself or agent<sup>5</sup>] showing the amount then actually due on the judgment, decree or mortgage. (5) If the redemptioner or purchaser have a lien prior to that of the lien creditor seeking to redeem, such redemptioner or purchaser shall submit to the sheriff the like evidence thereof, and of the amount due thereon, or the same may be disregarded.

§ 8. **Person With Prior Lien Entitled to Redeem First.**—SEC. 372. When two or more persons apply to the sheriff to redeem at the same time, he shall allow the person having the prior lien to redeem first, and so on. The sheriff shall immediately pay the money over to the person from whom the property is redeemed, if he attend at the redemption, or if not, at any time thereafter when demanded. Where a sheriff shall wrongfully refuse to allow any person to redeem, his right thereto shall not be prejudiced thereby, and upon the submission of the evidence and the tender of the money to the sheriff as herein provided, he may be required by order of the court or judge thereof to allow such redemption.

\* \* \* \* \*

§ 9. **Purchaser Entitled to Possession.**—SEC. 374. The purchaser from the day of sale until a resale or a redemption, and the redemptioner from the day of his redemption until another redemption, shall be entitled to the possession of the property purchased or redeemed, unless the same be in the possession of a tenant holding under an unexpired lease, and in such case shall be entitled to receive from such tenant the rents or the value of the use and occupation thereof during the same period.

§ 10. **Deed Must be Entered in Book of Levies Before Recorded.**—SEC. 375. The party to whom such sheriff's deed is given shall upon the receipt thereof take the same to the clerk of the district court, who shall

<sup>2</sup> See No. 277, 278, 279, *infra*.

<sup>3</sup> The [ ] shown here do not appear in this act; they are inserted for convenient reference.

<sup>5</sup> \* See No. 279, *infra*.

enter in his book of levies where the levy is recorded, the sale of real estate therein conveyed, and shall endorse the fact upon the deed with the date when presented to him and when made. And no county auditor shall record any such deed without such endorsement.

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**No. 277.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 14, chap. 33, secs. 361 to 370, inclusive, 372, 373.) This No. is *verbatim* as No. 276, *supra*, except § 6 of said No. at 2 instead of "shall have elapsed" read "has elapsed," and § 7 at 2 that part included in [ ] is omitted. For repealing clause see No. 121, § 3.

**No. 278.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 76, chap. 33, secs. 373 to 382, inclusive.) This No. is *verbatim* as No. 276, *supra*, except § 6 of said No. at 2 instead of "shall have elapsed" read "has elapsed," and § 7 at 2 that part included in [ ] is omitted. For date when in effect and repealing clause see No. 122, §§ 2, 4.

**No. 279.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, pp. 35, 91, chap. 34, secs. 370 to 378, inclusive, 378, 380.) This No. is *verbatim* as No. 276, *supra*, except § 5 of said No. at 2 the words "date of the" are omitted, and § 6 at 2 instead of "shall have elapsed" read "has elapsed," and at 2 instead of "terminated" read "determined," and § 7 at 2 instead of "such" read "said," and at 2 that part included in [ ] is omitted. For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

**No. 280.—AN ACT TO PROVIDE FOR THE REDEMPTION OF REAL ESTATE SOLD UNDER JUDGMENT OR FORECLOSURE OF MORTGAGE.<sup>1</sup>**

§ 1. **Limitation of Redemption.**—*Be it enacted, etc.*—SECTION 1. That the judgment debtor or his successor in interest may redeem any real estate sold under execution of judgment or foreclosure of mortgage at any time within one year from the date of the sale, by paying the amount of purchase money with interest at the rate of one per centum per month thereon from the date of sale, together with the amount of any taxes which the purchaser may have paid.

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<sup>1</sup>Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 116.) In effect from date.

## CHAPTER IX.—SPECIFIC PERFORMANCE.

**No. 281.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>****§ 1. SECTION 1. *Be it enacted, etc.***

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## CHAPTER LIII.

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**§ 2. Action for—Judgment.**—SEC. 490. In any action brought for the recovery of the purchase money against any person holding a contract for the purchase of lands, the party bound to perform the contract, if not plaintiff, may be made a party, and the court, in a final judgment, may order the interest of the purchaser to be sold or transferred to the plaintiff, upon such terms as may be just, and may also order a specific performance of the contract in favor of the complainant, or the purchaser, in case a sale be ordered.

\* \* \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 218.) For repealing clause see No. 115, § 2.

**No. 282.—AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE.****§ 1. SECTION 1. *Be it enacted, etc.***

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## VII.

**§ 2. Action for Judgment.**—SEC. 150. When any [person] who is bound by contract in writing to convey any real estate shall die before making the conveyance, the probate court may make a decree authorizing and directing the executor or administrator to convey such real estate to the person entitled thereto in all cases where such deceased person if living might be compelled to make such conveyance.

**§ 3. Contract to Convey Real Estate.**—SEC. 151. On presentation of a petition of any person claiming to be entitled to such conveyance, from any executor or administrator, setting forth the facts upon which such claim is predicated, the probate judge shall appoint a time and place for hearing such petition, which shall be at a regular term of the court, and shall order notice of the pending thereof, and the time and place of hearing, to be published at least four successive weeks next before such hearing in such newspaper in this Territory as the court shall designate.

**§ 4. How Enforced.**—SEC. 152. At the time and place appointed for such hearing, or at such other time as the same may be adjourned to, upon proof by affidavit of the due publication of the notice, the court shall proceed to a hearing; and all persons interested in the estate may appear and defend such petition by filing their objections in writing, and the court may examine on oath the petitioner and all who may be produced before him for that purpose.

**§ 5. Decree.**—SEC. 153. After a full hearing upon such petition and objections and examinations of the facts and circumstances of the claim,

<sup>1</sup> No date given. (See First Reg. Sess. 1854, pp. 266, 292.)

if the probate judge is satisfied that the petitioner is entitled to a conveyance of the real estate described in his petition, he shall make a decree authorizing and directing the executor or administrator to execute a conveyance thereof to the petitioner.

§ 6. **Appeal—Deed: Record of—Effect of.**—SEC. 154. Any person interested may appeal from such decree to the district court for the same county, as in other cases; but if no appeal be taken from such decree within the time limited therefor by law, or if such decree be confirmed on appeal, it shall be the duty of the executor or administrator to execute the conveyance according to the directions contained in the decree; and a certified copy thereof shall be recorded with the deed in the office of the recorder of the county where the lands lie, and shall be evidence of the correctness of the proceedings, and of the authority of the executor or administrator to make such conveyance.

§ 7. **Dismissal: Recourse of Petitioner.**—SEC. 155. If, upon a hearing in the probate court as hereinbefore provided, the probate judge shall doubt the right of the petitioner to have a specific performance of the contract, he shall dismiss the petitioner, without prejudice to the rights of the petitioner, who may at any time within six months thereafter proceed in the district court to enforce a specific performance.

§ 8. **Effect of Conveyance.**—SEC. 156. Every conveyance made in pursuance of a decree of the probate court, as provided in this act, shall be effectual to pass the estate contracted for as fully as if the contracting party himself were still living, and then executed the conveyance.

§ 9. **Grantee Shall Have Immediate Possession.**—SEC. 157. A copy of the decree for the conveyance made by the probate court, and duly certified and recorded in the office of the recorder where the lands lie, shall give the person entitled to the conveyance a right to the possession of the lands contracted for, and of holding the same according to the terms of the intended conveyance in like manner as if they had been conveyed in pursuance of the decree.

§ 10. **Decree May be Enforced by Process.**—SEC. 158. The recording of any decree, as provided in the preceding section, shall not prevent the court making such decree from enforcing the same by other process.

§ 11. **Death of Probable Grantee: Who Entitled to Conveyance.**—SEC. 159. If the person to whom the conveyance was to be made shall die before the commencement of the proceedings according to the provisions of this act, or before the completion of the conveyance, any person who would have been entitled to the conveyance under him as heir, devisee, or otherwise, in case the conveyance had been made according to the terms of the contract, or the executor or administrator of such deceased person, for the benefit of the person entitled, may commence such proceedings or prosecute the same if already commenced; and the conveyance shall be so made as to vest the estate in the same persons who would have been entitled to it, or in the executor or administrator for their benefit.

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**No. 283.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Jan. 11, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 99, chap. 69, sec. 485.) This No. is *verbatim* as No. 281, *supra*. For repealing clause see No. 117, § 2.

**No. 284.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

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<sup>1</sup>Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, pp. 163, 207, chap. 11.) This No. is *verbatim* as No. 282, *supra*. For repealing clause, etc., see No. 501, §§ 13 to 18.



**No. 285.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XIV.

§ 2. **Contract to Convey Real Estate.**—SEC. 264. When any person who is bound by contract, in writing, to convey any real estate, shall die before making the conveyance, the probate court may make a decree authorizing and directing the executor or administrator to convey such real estate to the person entitled thereto, in all cases where such deceased person, if living, might be compelled to make such conveyance.

§ 3. **How Enforced — Notice.**—SEC. 265. On presentation of a petition of any person claiming to be entitled to such conveyance from any executor or administrator, setting forth the facts upon which such claim is predicated, the probate court shall appoint a time and place for hearing such petition, which shall be at a regular term of the court, and shall order notice of the pending thereof, and the time and place of hearing, to be published at least four successive weeks next before such hearing, in such newspaper in this Territory as the court shall designate.

§ 4. **Hearing of Objections.**—SEC. 266. At the time and place appointed for such hearing, or at such other time as the same may be adjourned to, upon proof by affidavit of the publication of the notice, the court shall proceed to a hearing, and all persons interested in the estate may appear and defend such petition by filing their objections in writing, and the court may examine on oath the petitioner and all who may be produced before him for that purpose.

§ 5. **Decree.**—SEC. 267. After a full hearing upon such petition and objections, and examination of the facts and circumstances of the claim, if the probate court is satisfied that the petitioner is entitled to a conveyance of the real estate described in his<sup>2</sup> petition, he shall<sup>3</sup> make a decree authorizing and directing the executor or administrator to execute a conveyance thereof to the petitioner.

§ 6. **Appeals — Deed: Record of — Effect of.**—SEC. 268. Any person interested may appeal from such decree to the district court of the district embracing the county in which jurisdiction is exercised; but if no appeal be taken from such decree within the time limited therefor by law or if such decree be confirmed on appeal, it shall be the duty of the executor or administrator to execute the conveyance according to the directions contained in the decree; and a certified copy thereof shall be recorded with the deed in the office of the recorder of the county where the lands lie, and shall be evidence of the correctness of the proceedings and of the authority of the executor or administrator to make such conveyance.

§ 7. **Dismissal: Recourse of Petitioner.**—SEC. 269. If, upon a hearing in the probate court as hereinbefore provided, the said court shall doubt the right of the petitioner to have a specific performance of the contract, the petition shall be dismissed without prejudice to the rights of the petitioner, who may at any time within six months<sup>4</sup> thereafter proceed in the district court to enforce a specific performance.

§ 8. **Effect of Conveyance.**—SEC. 270. Every conveyance made in pursuance of a decree of the probate court, as provided in this act, shall be effectual to pass the estate contracted for as fully as if the contracting party himself were still living and then executed the conveyance.

§ 9. **Grantee Shall Have Immediate Possession.**—SEC. 271. A copy of the decree for the conveyance made by the probate court, and duly

<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 198, 217.) For repealing clause, etc., see No. 502, §§ 16 to 26.

<sup>2</sup> \* \* \* See No. 28, *infra*.



certified and recorded in the office of the recorder where the lands lie, shall give the person entitled to the conveyance a right to the possession of the lands contracted for and of holding the same according to the terms of the intended conveyance, in like manner as if they had been conveyed in pursuance of the decree.

§ 10. Decree May be Enforced by Process.—SEC. 272. The recording of any decree, as provided in the preceding section, shall not prevent the court making such decree from enforcing the same by other process.

§ 11. Death of Probable Grantee: Who Entitled to Conveyance.—SEC. 273. If the person to whom the conveyance was to be made shall die before the commencement of the proceedings according to the provisions of this act, or before the completion of the conveyance, any person who would have been entitled to the conveyance under him as heir, devisee or otherwise, in case the conveyance had been made according to the terms of the contract, or the executor or administrator of such deceased person, for the benefit of the person entitled, may commence such proceedings or prosecute the same if already commenced; and the conveyance shall be so made as to vest the estate in the same persons who would have been entitled to it, or in the executor or administrator for their benefit.

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**No. 286.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

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<sup>1</sup>Approved Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 193, chap. 52, sec. 532.) This No. is *verbatim* as No. 281, *supra*. In effect from date. For repealing clause see No. 118, § 3.

**No. 287.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup>Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 3, chap. 1, sec. 19.) This No. is *verbatim* as No. 281, *supra*. For repealing clause see No. 119 and 118, § 3.

**No. 288.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

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<sup>1</sup>Approved Nov. 11, 1873. (See Fourth Bien. Sess. 1873, pp. 232, 299, chap. 12.) This No. is *verbatim* as No. 285, except § 5 of said No. at 2 instead of "his" read "the," and at 3 instead of "he shall" read "the court shall," and § 7 at 4 for "six months" read "three months." For repealing clause, etc., see No. 506, §§ 13 to 17.

**No. 289.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 3, chap. 1, sec. 19.) This No. is *verbatim* as No. 281, *supra*. For repealing clause see No. 121, § 3.

**No. 290.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

CHAPTER I.

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. Action For Judgment.—SEC. 19. In an action brought for the recovery of the purchase money against any person holding a contract

<sup>1</sup>Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 130.) For date when in effect and repealing clause see No. 122, §§ 3, 4.

for the purchase of lands, the party bound to perform the contract, if not the plaintiff, may be made a party, and the court in a final judgment may order the interest of purchaser to be sold or transferred to the plaintiff upon such terms as may be just, and may also order a specific performance of the contract in favor of the complainant, or the purchaser, in case a sale be ordered.

\* \* \* \* \*

CHAPTER XLIX.

§ 3. **Contract to Convey Real Estate.**—SEC. 626. If any person who is bound by a contract, in writing, to convey any real estate, shall die before making the conveyance, the district court having jurisdiction over the county in which such real estate or any portion thereof is situate, may make a decree authorizing and directing the conveyance of such real estate to the person entitled thereto, in all cases, when such deceased person, if living, might be compelled to make such conveyance.

§ 4. **How Enforced.**—SEC. 627. On filing and presentation of a petition of any person claiming to be entitled to such conveyance under such contract setting forth the facts upon which such claim is predicated, the district court, or the judge thereof, shall make an order appointing a time and place for hearing such petition, which shall be at some day of a regular term of said district court, and shall also order notice of the pendency thereof and the time and place of the hearing, to be published at least<sup>2</sup> four successive weeks next before such hearing in such newspaper in the Territory as the court shall designate.

§ 5. **Hearing of Objections.**—SEC. 628. At the time and place appointed for such hearing, or at such other time as the same may be adjourned to, upon proof by affidavit of the publication of the notice, the court shall proceed to a hearing, and all persons interested as creditors, heirs, devisees or personal representatives, may appear and resist such petition by filing their objections in writing, and the court may examine on oath the petitioners and all witnesses who may be produced on the hearing by any interested party for that purpose.

§ 6. **Decree.**—SEC. 629. After a full hearing upon such petition and objections of the facts and circumstances of the claim, if the court is satisfied that the petitioner is entitled in equity to a conveyance of the real estate described in the petition, or any part thereof or any interest therein, the court shall make a decree authorizing and directing the execution and delivery of a conveyance to the petitioner.

§ 7. **Who Shall Execute Conveyance.**—SEC. 630. Such conveyance shall be executed by the executor or administrator of the estate of the deceased, if the deceased was a resident of or had his place of abode at the time of his death in this Territory, or if he died therein; but in such case no decree for conveyance shall be made unless the executor or administrator shall have been personally served with a copy of said petition and the notice provided for in the second section of this act<sup>3</sup>, for at least two weeks prior to the time appointed for the hearing.

§ 8. **Court May Appoint Commissioner to Make Conveyance—Foreign Executor May Appear for Deceased.**—SEC. 631. If the deceased died out of the Territory and not having been a resident thereof at the time of his death, such conveyance shall be executed by a commissioner to be appointed by the court in the decree for that purpose, but in such case in addition to the notice provided for in the second section of this act<sup>3</sup>, it shall appear to the satisfaction of the court at the hearing that

<sup>2</sup> See No. 287, *supra*.

<sup>3</sup> The "second section of this act" may be found at No. 122, § 2, but it, as will be seen, has no bearing upon the point of reference. See § 4 of this No., which is evidently the section referred to. This section is the one referred to in the Code of 1881. (See No. 291, *infra*.)

the executor or administrator of such deceased duly appointed in another state, territory or county, or his heirs or devisees, shall have had reasonable notice personally of the pendency of said petition and of the time and place appointed for such hearing. And such foreign executor or administrator shall have the same right at the hearing or on appeal to file objections and resist the claim of the petitioners as an executor or administrator appointed under the laws of the Territory would have, and it shall not be necessary in such case that an administration of the estate of the deceased be had in the Territory, to authorize the decree of conveyance prayed for, if the district court upon the hearing shall so find.

§ 9. **What the Conveyance Shall State.**—SEC. 632. A conveyance executed under the provisions of this act shall so refer to the decree authorizing the conveyance that the same may be readily found, but need not recite the record in the case generally, and the conveyance made in pursuance of a decree shall pass to the grantee all the estate, right, title and interest contracted to be conveyed by the deceased as fully as if the contracting party himself were still living and then executed the conveyance in pursuance of such contracts.

§ 10. **Appeals—Deed: Record of—Effect of.**—SEC. 633. Any party interested may within six months from the rendition of the decree appeal therefrom to the supreme court in the same manner as appeals are taken and prosecuted from final decrees or judgments in equity causes; but if no appeal be taken from such decree within the time limited therefor, or if such decree be affirmed on appeal, it shall be the duty of the executor, administrator or commissioner to execute and deliver the conveyance according to the directions contained in the decree; and a certified copy thereof shall be recorded with the deed in the office of the auditor of the county where the lands lie, and shall be conclusive evidence of the correctness of the proceedings and of the authority of the executor, administrator or commissioner to make such conveyance.

§ 11. **Grantee Shall Have Immediate Possession.**—SEC. 634. A copy of the decree for the conveyance made by the district court and duly certified and recorded in the office of the auditor of the county wherein the land is situate, shall give to the person entitled to the conveyance a right to the immediate possession of the land contracted for and of holding the same according to the terms of the intended conveyance, in like manner and with like effect as if they had been conveyed in pursuance of the decree.

§ 12. **Death of Probable Grantee: Who Entitled to Represent.**—SEC. 635. If the person to whom the conveyance was to be made shall die before the commencement of the proceedings according to the provisions of this act, or before the completion of the conveyance, any person who would have been entitled to the conveyance under him, as heir, devisee or otherwise, in case the conveyance had been made according to the terms of the contract, or the executor or administrator of such deceased person, for the benefit of persons entitled, may commence such proceedings or prosecute the same if already commenced; and the conveyance shall be so made as to vest the estate in the same persons who would have been entitled to it, or in the execution or administration for their benefit.

\* \* \* \* \*

\* See No. 287, *supra*.

## **No. 291.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 35, chap. 1, sec. 19; p. 137, chap. 52, secs. 623 to 632, inclusive.) This No. is *verbatim* as No. 290, *supra*, except § 4 of said No. at 2 the words "at least" are omitted, and § 9 at 4 "then" is omitted, and wherever in said No. the words "this act" appear, read "this chapter." For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

## CHAPTER X.—TO RECOVER, ETC., REAL PROPERTY.

**No. 292.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

## CHAPTER XLII.

§ 2. **Who May Maintain Action.**—SEC. 898. Any person having a valid, subsisting interest in real property and a right to the possession thereof, may recover the same by action in the district court of the proper county, to be brought against the tenant in possession; if there is no such tenant, then against the person claiming the title or some interest therein.

\* \* \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 205.) For repealing clause see No. 115, § 2.

**No. 293.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 84, chap. 40, sec. 390.) This No. is *verbatim* as No. 292, *supra*. For repealing clause see No. 117, § 2.

**No. 294.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 177, chap. 43, sec. 434.) This No. is *verbatim* as No. 292, *supra*. In effect from date. For repealing clause see No. 118, § 2.

**No. 295.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

## CHAPTER XLVI.

§ 2. **Who May Maintain Action.**—SEC. 488. Any person having a valid, subsisting interest in real property and a right to the possession thereof, may recover the same by action in the district court of the proper county, to be brought against the tenant in possession; if there is no such tenant, then against the person claiming the title or some interest therein.

\* \* \* \* \*

§ 3. **Effect of Alienation.**—SEC. 497. An action for the recovery of the possession of real property against a person in possession cannot be prejudiced by any alienation made by such person either before or after the commencement of the action, but if such alienation be made after the commencement of the action, and the defendant do not satisfy the judgment recovered for damages for withholding the possession, such damages may be recovered by action against the purchaser.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blen. Sess. 1869, p. 125.) For repealing clause see Nos. 119 and 118, § 3.

§ 4. **Judgment: On Whom Conclusive.**—SEC. 501. In an action to recover the possession of real property the judgment therein shall be conclusive as to the estate in such property and the right to the possession thereof, so far as the same is thereby determined, upon the party against whom the same is given, and against all persons claiming from, through or under such party after the commencement of such action, except as in this section provided. When service of the notice is made by publication and judgment is given for failure to answer at any time within two years from the entry thereof, the defendant or his successor in interest as to the whole or any part of the property shall, upon application to the court or judge thereof, be entitled to an order vacating the judgment and granting him a new trial, upon the payment of the costs of the action.

§ 5. **Admeasurement of Dower.**—SEC. 508. In an action to recover the possession of real property by a tenant in dower, or her successor in interest, if such estate in dower has not been admeasured before the commencement of the action, the plaintiff shall not have execution to deliver the possession thereof until the same be admeasured as follows: (1) At any time after the entry of judgment, the plaintiff may upon notice to the adverse party, move the court for the appointment of referees to admeasure the dower out of the real property of which the possession is recovered by the action. The court shall allow such motion unless it appear probable on the hearing that a partition of such property cannot be made, without prejudice to the interests of the other owners. In the latter case the court shall disallow the motion, and thereafter the plaintiff shall only proceed for partition or sale of such real property, as provided in the succeeding chapter.<sup>2</sup> (2) If the court allow the motion, thereafter the proceedings shall be conducted as provided in such chapter. At any time after the confirmation of the report of the referees, the plaintiff may have execution for the delivery of the possession of the property according to the admeasurement thereof, and for the damages recovered, if any, for withholding the same, if such damages remain unsatisfied. (3) If the motion for admeasurement be made at the term at which judgment was given, the notice thereof shall be served on the adverse party at such time as the court by general rule or special order may prescribe.

§ 6. **Donation Law: Estate of Donee.**—SEC. 504. In an action at law for the recovery of the possession of real property, if either party claim the property as a donee of the United States, and under the act of congress approved September 27, 1850, commonly called the donation law, or the acts amendatory thereof, such party from the date of his settlement thereon, as provided in said acts, shall be deemed to have a legal estate in fee in such property, to continue upon condition that he perform the conditions required by such acts, which estate is unconditional and indefeasible after the performance of such conditions. In such action, if both plaintiff and defendant claim title to the same real property by virtue of settlement under such acts, such settlement and the performance of the subsequent conditions shall be conclusively presumed in favor of the party having or claiming under the elder certificate or patent, as the case may be, unless it appear upon the face of such certificate or patent that the same is absolutely void.

<sup>2</sup> See No. 304, *infra*.

## NO. 296.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 131, chap. 46, secs. 486, 495, 499, 501, 542.) This No. is *verbatim* as No. 285, *supra*. For repealing clause see No. 121, § 3.

**No. 297.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XLV.

§ 2. **Who May Maintain Action.**—SEC. 540. Any person having a valid, subsisting interest in real property and a right to the possession thereof may recover the same by action in the district court of the proper county, to be brought against the tenant in possession; if there is no such tenant, then against the person claiming the title or some interest therein.

§ 3. **Effect of Alienation.**—SEC. 549. An action for the recovery of the possession of real property against a person in possession, cannot be prejudiced by any alienation made by such person either before or after the commencement of the action; but if such alienation be made after the commencement of the action, and the defendant do not satisfy the judgment recovered for damages for withholding the possession, such damages may be recovered by action against the purchaser.

§ 4. **Judgment: On Whom Conclusive.**—SEC. 553. In an action to recover the possession of real property the judgment therein shall be conclusive as to the estate in such property and the right to the possession thereof, so far as the same is thereby determined, upon the party against whom the same is given, and against all persons claiming from, through or under such party after the commencement of such action, except as in this section provided. When service of the notice is made by publication and judgment is given for failure to answer at any time within two years from the entry thereof, the defendant or his successor in interest as to the whole or any part of the property shall, upon application to the court or judge thereof, be entitled to an order vacating the judgment and granting him a new trial, upon the payment of the costs of the action.

§ 5. **Admeasurement of Dower.**—SEC. 555. In an action to recover the possession of real property by a tenant in dower, or her successor in interest, if such estate in dower has not been admeasured before the commencement of the action the plaintiff shall not have execution to deliver the possession thereof until the same be admeasured as follows: (1) At any time after the entry of judgment, the plaintiff may, upon notice to the adverse party, move the court for the appointment of referees to admeasure the dower out of the real property of which the possession is recovered by the action. The court shall allow such motion unless it appear probable on the hearing that a partition of such property cannot be made without prejudice to the interests of the other owners. In the latter case the court shall disallow the motion, and thereafter the plaintiff shall only proceed for partition of sale of such real property as provided in the succeeding chapter.<sup>2</sup> (2) If the court allow the motion, thereafter the proceedings shall be conducted as provided in such chapter. At any time after the confirmation of the report of the referees, the plaintiff may have execution for the delivery of the possession of the property according to the admeasurement thereof, and for the damages recovered, if any, for withholding the same, if such damages remain unsatisfied. (3)

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 112, 116.) In effect from date. For repealing clause see No. 122, §§ 3, 4. § 6 of this No. also appears *verbatim* on p. 327 of Laws 1877, as a separate act under date of Oct. 31, 1877, entitled "An act to amend an act entitled 'An act to regulate the practice and proceedings in civil actions,' approved Nov. 13, 1873."

<sup>2</sup> See Nos. 306 and 304, *infra*.

If the motion for admeasurement be made at the term at which judgment was given, the notice thereof shall be served on the adverse party at such time as the court by general rule or special order may prescribe.

## CHAPTER XLVI.

§ 6. **Donation Law: Estate of Donee.**—"Sec. 556. In an action at law for the recovery of the possession of real property, if either party claim the property as a donee of the United States, and under the act of congress approved September 27, 1850, commonly called the "donation law," or the acts amendatory thereof, such party from the date of his settlement thereon, as provided in said act, shall be deemed to have a legal estate in fee in such property, to continue upon condition that he perform the conditions required by such acts, which estate is unconditional and indefeasible after the performance of such conditions. In such action if both plaintiff and defendant claim title to the same real property by virtue of settlement under such acts, such settlement and the performance of the subsequent condition shall be *prima facie* presumed in favor of the party having or claiming under the elder certificate or patent, as the case may be, unless it appears upon the face of such certificate or patent that the same is absolutely void. Any person in possession, by himself or his tenant, of real property, and any private or municipal corporation in possession by itself or its tenant of any real property, or when such real property is not in the actual possession of any one, any person or private or municipal corporation claiming title to any real property under a patent from the United States, or during his or its claim of title to such real property under a patent from the United States for such real estate, may maintain a civil action against any person or persons, corporations or associations, claiming an interest in said real property or any part thereof, or any right thereto adverse to him, them or it, for the purpose of determining such claim, estate or interest; and where several persons or private or municipal corporations are in possession of, or claim as aforesaid, separate parcels of real property, and an adverse interest is claimed, or claim made in or to any such parcels, by any other person, persons, corporations or associations, arising out of a question, conveyance, statute, grant, or other matter common to all such parcels of real estate, all or any portion of such persons or corporations so in possession, or claiming such parcel of real property may unite as plaintiffs in such suit to determine such adverse claim or interest against all persons, corporations or associations claiming such adverse interest."

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**No. 298.—AN ACT TO REGULATE ACTIONS OR PROCEEDINGS TO RECOVER OR AFFECTING REAL ESTATE.<sup>1</sup>**

§ 1. **Who May Maintain Action.**—SECTION 1. *Be it enacted, etc.,* That any person having a valid, subsisting interest in real property, or a right to the possession thereof, may recover the same by action in the district court of the proper county, to be brought against any person in possession or claiming an adverse interest therein.

\* \* \* \* \*

§ 2. **Receiver's Receipt Evidence of Title.**—SEC. 3. The receipt of a receiver of any United States land office in the Territory, of the entry or purchase of any tract or tracts of land, shall be *prima facie* evidence in any court in this Territory that the title of the lands mentioned or described in such receipt is in the person or persons named therein.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 134.) All acts and parts of acts necessarily inconsistent are repealed.



**No. 299.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1881. (See Code 1881, p. 123, chap. 46, secs. 536, 545, 550, and chap. 47.) This No. is *verbatim* as No. 297, *supra*, except § 5 of said No. relative to dower is omitted.

**No. 300.—AN ACT PRESCRIBING THE MODE OF MAINTAINING AND DEFENDING POSSESSORY ACTIONS ON UNSURVEYED PUBLIC LANDS IN THIS TERRITORY.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, a great many citizens of the United States are now settling upon and cultivating the unsurveyed government lands in this Territory; and, as many years may elapse before the government surveys will be extended over the said lands, so that the settlers upon the same can take them under the laws of the United States, and defend them against the trespass of others, therefore:

§ 2. **Certain Rights of Settlers.**—SECTION 1. *Be it enacted, etc.*, That any person now occupying and settled upon or who may hereafter occupy or settle upon any of the unsurveyed public lands not to exceed 160 acres in this Territory, for the purpose of holding and cultivating the same, may commence and maintain any action, in any court of competent jurisdiction, for interference with or injuries done to his or her possessions of said lands against any person or persons so interfering with or injuring such lands or possessions: *Provided always*, That if any of the aforesaid class of settlers are absent from their claims continuously for a period of six months in any one year, the said person or persons shall be deemed to have forfeited all rights under this act.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 26, 1883. (See Ninth Bien. Sess. 1883, p. 70.) In effect: from date.

**No. 300½.—AN ACT TO PROVIDE FOR THE RE-ESTABLISHMENT OF LOST AND UNCERTAIN BOUNDARIES TO LANDS.<sup>1</sup>**

§ 1. **Action For.**—*Be it enacted, etc.* SECTION 1. That whenever the boundaries of lands between two or more adjoining proprietors shall have been lost, or by time, accident or any other cause shall have become obscure or uncertain, and the adjoining proprietors cannot agree to establish the same, one or more of said adjoining proprietors may bring his civil action in equity in the district court for the county in which such lands, or part of them, are situated, and such district court as a court of equity may upon such complaint order such lost or uncertain boundaries to be erected and established and properly marked.

§ 2. **Commissioners May be Appointed to Determine.**—SEC. 2. Said court may in its discretion appoint commissioners, not exceeding three competent and disinterested persons, one or more of whom shall be practical surveyors, residents of the Territory, which commissioners shall be, before entering upon their duties, duly sworn to perform their said duties faithfully, and the said commissioners shall thereupon survey, erect, establish and properly mark said boundaries and return to the court a plat of said survey and the field notes thereof, together with their report. Said report shall be advisory and either party may except thereto in the same manner as to a report of referees.

§ 3. **How Proceedings Conducted—Costs a Lien—Lis Pendens.**—SEC. 3. That the proceedings shall be conducted as other civil actions,

<sup>1</sup> Approved Jan. 16, 1886. (See Tenth Bien. Sess. 1885-6, p. 104.) In effect from date.

and the court on final decree shall apportion the costs of the proceedings equitably, and the cost so apportioned shall be a lien upon the said lands, severally, as against any transfer or incumbrance made of or attaching to said lands, from the time of the filing of the complaint: *Provided*, A notice of *lis pendens* is filed in the auditor's office of the proper county in accordance with law.

## CHAPTER XI.—PARTITION OF REAL PROPERTY.

### No. 301.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

#### § 1. SECTION 1. *Be it enacted, etc.*

#### CHAPTER XLIII.

§ 2. **Venue of Action.**—SEC. 401. Action may be brought in the district court of the proper county <sup>2</sup> for the partition of real property, held or possessed by joint tenants or tenants in common, or for the special assignment or determination of any right or interest therein by any person interested.

§ 3. **Order for Partition or Sale.**—SEC. 402. \* \* \* The court may require the cause to be made by order, a partition of the premises or a special assignment of the interest, or in case the partition or assignment is impracticable may order a sale of the property and a division of the proceeds, and shall in all respects adjudge as the nature of cases may require.

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 206.) For repealing clause see No. 115, § 2.

<sup>2</sup> See No. 298, *supra*.

### No. 302.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 84, chap. 40, secs. 393, 394.) This No. is *verbatim* as No. 301, *supra*, except § 2 of said No. at <sup>2</sup> the words "of the proper county" are omitted. For repealing clause see No. 117, § 2.

### No. 303.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 177, chap. 43, secs. 437, 438.) This No. is *verbatim* as No. 301, *supra*, except § 2 of said No. at <sup>2</sup> the words "of the proper county" are omitted. For repealing clause see No. 118, § 3. In effect from date.

### No. 304.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

#### § 1. SECTION 1. *Be it enacted, etc.*

#### CHAPTER XLVII.

§ 2. **Action for Partition: Who May Maintain.**—SEC. 505. When several persons hold and are in possession of real property as tenants in

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 133.) For repealing clause See No. 119 and 118, § 3.

common, in which one or more of them have an estate of inheritance, or for life or years, an action may be maintained by one or more of such persons for a partition thereof according to the respective rights of the persons interested therein, and for sale of such property or a part of it, if it appear that a partition cannot be made without great prejudice to the owners.

\* \* \* \* \*

§ 3. **Lien Creditors May be Made Parties**—SEC. 507. The plaintiff may, at his option, make creditors having a lien upon the property or any portion thereof, other than by judgment or decree, defendants in the suit. When the lien is upon an undivided interest or estate of any of the parties, such lien, if a partition be made, is thenceforth a lien only on the share assigned to such party; but such share shall be first charged with its just proportion of the costs of the partition in preference to such lien.

§ 4. **Notice: How Directed**.—SEC. 508. The notice shall be directed by name to all the tenants in common who are known, and in the same manner to all lien creditors who are made parties to the suit, and generally to all persons unknown having or claiming an interest or estate in the property.

§ 5. **Notice to Unknown or Absent Parties: How Served**.—SEC. 509. If a party having a share or interest in, or lien upon, the property be unknown, or either of the known parties reside out of the Territory or cannot be found therein, and such fact be made to appear by affidavit, the notice may be served by publication as in ordinary cases. When service is made by publication the notice must contain a brief description of the property which is the subject of the suit.

\* \* \* \* \*

§ 6. **Rights of Parties: Determination and Proof**.—SEC. 511. The rights of the several parties, plaintiffs as well as defendants, may be put in issue, tried and determined in such suit, and where a defendant fails to answer, or where a sale of the property is necessary, the title shall be ascertained by proof to the satisfaction of the court before the decree for partition or sale is given.

§ 7. **In What Case Sale may be Ordered: Decree of Partition**.—SEC. 512. If it be alleged in the complaint and established by evidence, or if it appear by the evidence without such allegation in the complaint, to the satisfaction of the court that the property or any part of it is so situated that partition cannot be made without great prejudice to the owners, the court may order a sale thereof, and for that purpose may appoint one or more referees. Otherwise, upon the requisite proofs being made, it shall decree a partition according to the respective rights of the parties as ascertained by the court, and appoint three referees therefor, and shall designate the portion to remain undivided for the owners whose interests remain unknown or<sup>2</sup> not ascertained.

§ 8. **Mode of Partition**.—SEC. 513. In making the partition, the referees shall divide the property and allot the several portions thereof to the respective parties, quality and quantity relatively considered, according to the respective rights of the parties as determined by the court, designating the several portions by proper landmarks. \* \* \* The referees shall make a report of their proceedings, specifying therein the manner of executing their trust, describing the property divided and the shares allotted to each party, with a particular description of each share.

§ 9. **Decree: On Whom Binding and Conclusive**.—SEC. 514. The court may confirm or set aside the report in whole or in part, and if necessary appoint new referees. Upon the report being confirmed a decree shall be entered that such partition be effectual forever, which decree shall be binding and conclusive—(1) On all parties named therein

<sup>2</sup> See Nos. 305, 306, 307, *infra*.

and their legal representatives who have at the time any interest in the property divided, or any part thereof as owners in fee, or as tenants for life or for years, or as entitled to the reversion, remainder or inheritance of such property or any part thereof, after the termination of a particular estate therein, or who by any contingency may be entitled to a beneficial interest in the property, or who have an interest in any undivided share thereof as tenants for years or for life. (2) On all persons interested in the property to whom notice shall have been given by publication. (3) On all other persons claiming from or through such parties or persons or either of them.

§ 10. **Decree: Whom Shall Not Affect.**—SEC. 515. Such decree and partition shall not affect any tenants, for years or for life, of the whole of the property which is the subject of partition, nor shall such decree and partition preclude any person except such as are specified in the last section from claiming title to the property in question or from controverting the title of the parties between whom the partition shall have been made.

§ 11. **Order for Sale.**—SEC. 517. If the referees report to the court that the property, of which partition shall have been decreed, or any separate portion thereof, is so situated that a partition thereof cannot be made without great prejudice to the owners, and the court is satisfied that such report is correct, it may thereupon by an order direct the referees to sell the property or separate portion thereof.

§ 12. **Disposition of Residue When Only Part Sold.**—SEC. 518. When a part of the property only is ordered to be sold, if there be an estate for life or years in an undivided share of the property, the whole of such estate may be set off in any part of the property not ordered to be sold.

§ 13. **Sale: How Made—Notice: What Shall State.**—SEC. 531. All sales of real property made by the referees shall be made by public auction to the highest bidder in the manner required for the sale of real property on execution. The notice shall state the terms of sale, and if the property or any part of it is to be sold subject to a prior estate, charge or lien, that shall be stated in the notice.

§ 14. **Terms of Credit.**—SEC. 532. The court shall in the order of sale direct the terms of credit which may be allowed for the purchase money of any portion of the premises of which it may direct a sale on credit, and for that portion of which the purchase money is required by the provisions hereinafter contained, to be invested for the benefit of unknown owners, infants or parties out of the Territory.

§ 15. **Mortgages, etc., for Deferred Payments.**—SEC. 533. The referees may take separate mortgages and other securities for the whole or convenient portions of the purchase money, of such parts of the property as are directed by the court to be sold on credit, in the name of the clerk of the court and his successor \* in office, and for the shares of any known owner of full age, in the name of such owner.

§ 16. **Estate for Life or Years: Sale of.**—SEC. 534. When the estate of any tenant for life or years in any undivided part of the property in question, shall have been admitted by the parties or ascertained by the court to be existing at the time of the order of sale, and the person entitled to such estate shall have been made a party to the suit, such estate may be first set off out of any part of the property, and a sale made of such parcel, subject to the prior unsold estate of such tenant therein; but if in the judgment of the court a due regard to the interest of all the parties require that such estate be also sold, the sale may be so ordered.

\* See Nos. 305, 306, 307, *infra*.

§ 17. **Satisfaction for Such Estate to Person Entitled.**—SEC. 535. Any person entitled to an estate for life or years in any undivided part of the property, whose estate shall have been sold, shall be entitled to receive such sum in gross as may be deemed a reasonable satisfaction for such estate, and which the person so entitled shall consent to accept instead thereof, by an instrument duly acknowledged and filed with the clerk.

§ 18. **In What Case Proceeds May be Invested for Benefit of Person Entitled.**—SEC. 536. If such consent be not given, as provided in the last section, before the report of sale, the court shall ascertain and determine what proportion of the proceeds of the sale, after deducting expenses, will be a just and reasonable sum to be invested for the benefit of the person entitled to such estate for life or years, and shall order the same to be deposited in court for that purpose.

§ 19. **How Such Proceeds Ascertained.**—SEC. 537. The proportion of the proceeds of the sale to be invested as provided in the preceding section, shall be ascertained and determined in the several cases as follows: (1) If an estate in dower be included in the order of sale, its proportion shall be one-third of the proceeds of the sale of the property, or of the sale of the undivided share in such property, upon which the claim of dower existed. (2) If an estate by the courtesy or other estate for life or years be included in the order of sale, its proportion shall be the whole proceeds of the sale of the property or of the sale of the undivided share thereof in which such estate may be. And in all cases the proportion of the expenses of the proceedings shall be deducted from the proceeds of the sale.

§ 20. **If Such Persons Unknown.**—SEC. 538. If the persons entitled to such estate for life or years be unknown, the court shall provide for the protection of their rights in the same manner, as far as may be, as if they were known and had appeared.

§ 21. **Dower or Contingent Right, etc.; Investment Proceeds of Sale.**—SEC. 539. In all cases of sales in partition, when it appears <sup>a</sup> that a married woman has an inchoate right of dower in any of the property sold, or that any person has a vested or contingent future right or estate therein, the court shall ascertain and settle the proportionate value of such inchoate,<sup>b</sup> contingent or vested right or estate, and shall direct such proportion of the proceeds of sale to be invested, secured or paid over in such manner as to protect the rights and interests of the parties.

§ 22. **When Terms May be Made Known.**—SEC. 540. In all cases of sales of property the terms shall be made known at the time, and if the premises consist of distinct farms or lots, they shall be sold separately or otherwise, if the court so directs.

§ 23. **Who Shall Not be Interested in Sale.**—SEC. 541. Neither of the referees nor any person for the benefit of either of them shall be interested in any purchase, nor shall the guardian of an infant party be interested <sup>a</sup> in the purchase of any real property being the subject of the suit, except for the benefit of the infant. All sales contrary to the provisions of this section shall be void.

§ 24. **Report of Sale: Substance of.**—SEC. 542. After completing the sale the referees shall report the same to the court, with a description of the different parcels of land sold to each purchaser, the name of the purchaser, the price paid or secured, the terms and conditions of the sale, and the securities if any taken. The report shall be filed with the clerk.

§ 25. **Confirmation of Sale—Deed to Purchaser.**—SEC. 543. The report of sale may be excepted to in writing by any party entitled to a share

<sup>a</sup> See No. 307, *infra*, and note by the secretary of the Territory at p. 157 of the Code 1881.

<sup>b</sup> See No. 307, *infra*.



of the proceeds. If the sale be confirmed, the order of confirmation shall direct the referees to execute conveyances and take securities pursuant to such sale.

§ 26. **Release of Lien Creditor in Certain Case.**—SEC. 544. When a party entitled to a share of the property or an encumbrancer entitled to have his lien paid out of the sale becomes a purchaser, the referees may take his receipt for so much of the proceeds of the sale as belongs to him.

§ 27. **Investment of Proceeds in Certain Case.**—SEC. 545. When there are proceeds of sale belonging to an unknown owner, or to a person without the Territory who has no legal representatives within it, or when there are proceeds arising from the sale of an estate subject to the prior estate of a tenant for life or years, which are paid into court or otherwise deposited by order of the court, the same shall be invested in securities on interest for the benefit of the persons entitled thereto.

§ 28. **Securities Shall be Taken in Name of Clerk.**—SEC. 546. When the security for the proceeds of sale is taken, or when an investment of any such proceeds is made, it shall be done, except as herein otherwise provided, in the name of the clerk of the court and his successors in office, who shall hold the same for the use and benefit of the parties interested, subject to the order of the court.

§ 29. **Otherwise When Parties Agree.**—SEC. 547. When security is taken by the referees on a sale and the parties interested in such security by an instrument in writing under their hands, delivered to the referees, agree upon the shares and proportions to which they are respectively entitled, or when shares and proportions have been previously adjudged by the court, such securities shall be taken in the names of and payable to the parties respectively entitled thereto, and shall be delivered to such parties upon their receipt therefor. Such agreement and receipt shall be returned and filed with the clerk.

§ 30. **Clerk Shall Invest Profits.**—SEC. 548. The clerk in whose name a security is taken or by whom an investment is made, and his successors in office shall receive the interest and principal as it becomes due and apply and invest the same as the court may direct, and shall file in his office all securities taken and kept on account in a book provided and kept for that purpose in the clerk's office, free for inspection by all persons, of investments and moneys received by him thereon, and the disposition thereof.

§ 31. **When Partition Unequal, Compensation to be Adjudged.**—SEC. 549. When it appears that partition cannot be made equal between the parties according to their respective rights, without prejudice to the rights and interests of some of them, the court may adjudge compensation to be made by one party to another on account of the inequality of partition; but such compensation shall not be required to be made to others by owners unknown, nor by infants, unless in case of an infant it appear that he has personal property sufficient for that purpose, and that his interest will be promoted thereby.

§ 32. **Disposition of Proceeds of Infant's Interest.**—SEC. 550. When the share of an infant is sold, the proceeds of the sale may be paid by the referees making the sale to his general guardian or the special guardian appointed for him in the suit, upon giving the security required by law, or directed by order of the court.

§ 33. **Guardian May Consent to Partition Without Suit.**—SEC. 552. The general guardian of an infant and the guardian entitled to the custody and management of the estate of an insane person, or other person adjudged incapable of conducting his own affairs, who is interested in real estate held in common or in any other manner, so as to authorize his being made a party to an action for the partition thereof, may consent

to a partition without suit and agree upon the share to be set off to such infant or other person entitled, and may execute a release in his behalf to the owners of the shares of the <sup>7</sup> parts to which they may respectively be entitled, <sup>6</sup> upon an order of the court.

\* \* \* \* \*

<sup>6</sup> See Nos. 306, 307, *infra*.

<sup>7</sup> See No. 307, *infra*.

#### **No. 305.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 136, chap. 47, secs. 503, 504 to 507, inclusive, and 509 to 513, inclusive, and 515, 516, and 529 to 550, inclusive.) This No. is verbatim as No. 314, *supra*, except § 7 of said No. at 2 "are" is inserted after "or," and § 15 at 3 instead of "successor" read "successors." For repealing clause see No. 121, § 3.

#### **No. 306.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 117, chap. 47, secs. 557, 559 to 561, inclusive, and 563 to 567, inclusive, and 569, 570, 581 to 603, inclusive.) This No. is verbatim as No. 304, *supra*, except § 7 of said No. at 2 "are" is inserted after "or," and § 15 at 3 instead of "successors" read "successor," and § 23 at 4 "and" is inserted after "entitled." For date when in effect and repealing clause see No. 122, §§ 3, 4.

#### **No. 307.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 127, chap. 48, secs. 552, 554 to 556, inclusive, and 558 to 562, inclusive, and 564, 565, 578 to 598, inclusive.) This No. is verbatim as No. 304, *supra*, except § 7 of said No. at 2 "are" is inserted after "or," and § 15 at 3 instead of "successors" read "successor;" § 21 at 5 see note by secretary of the Territory at p. 157 of the Code 1881, and § 23 at 6 instead of the words "infant party be interested" read "infant be an interested party," and § 33 at 7 instead of the words "of the" read "or," at 4 "and" is inserted; also § 19 of said No. 304 is omitted. For date when in effect and repealing clause see Nos. 338, 339, 340.

### **CHAPTER XII.—FORECLOSURE OF MORTGAGES.**

#### **No. 308.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

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XLVII.

§ 2. **Where Action to Foreclosure Lies.**—SEC. 408. When default is made in the performance of any condition contained in a mortgage, the mortgagee or his assigns may proceed in the district court of the <sup>2</sup> county where the land or some part thereof lies to foreclose the equity of redemption contained in the mortgage

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, p. 207.) For repealing clause see No. 115, § 2.

<sup>2</sup> See No. 309, *infra*.



**§ 3. In What Case Remedy of Mortgagee Confined to Mortgage.**—SEC. 409. When there is no express agreement in the mortgage, nor any separate instrument given for the payment of the sum secured thereby, the remedy of the mortgage shall be confined to the property mortgaged.

**§ 4. Order for Sale of Mortgaged Premises.**—SEC. 410. In rendering judgment of foreclosure, the court shall order the mortgaged premises, or so much thereof as may be necessary, to be sold to satisfy the mortgage and costs of the action. The payment of the mortgage debt, with interest and costs, at any time before sale, shall satisfy the judgment.

**§ 5. In What Case Judgment for Deficit.**—SEC. 411. When there is an express written agreement<sup>2</sup> for the payment of the sum of money secured, contained in the mortgage or any separate instrument, the court shall direct in the order of the sale that the balance due on the mortgage, and costs which may remain unsatisfied after the sale of the mortgaged premises, shall be levied of any property of the mortgage debtor.

**§ 6. Sale: Order for, etc., to Issue to Sheriff.**—SEC. 412. A copy of the order of sale and judgment shall be issued and certified by the clerk, under the seal of the court, to the sheriff, who shall thereupon proceed to sell the mortgaged premises, or so much thereof as may be necessary to satisfy the judgment, interest and costs, as upon execution; and if any part of the judgment, interests and costs remain unsatisfied the sheriff shall forthwith proceed to levy the residue of the other property of the defendant.

**§ 7. No Foreclosure While Another Action for Same Debt Pending.**—SEC. 413. The plaintiff shall not proceed to foreclose his mortgage while he is prosecuting any other action for the same debt or matter which is secured by the mortgage, or while he is seeking to obtain execution of any judgment in such other action; nor shall he prosecute any other action for the same matter while he is foreclosing his mortgage or prosecuting a judgment of foreclosure.

**§ 8. Effect of Compliance with Conditions of Mortgage After Action Commenced.**—SEC. 414. Whenever a complaint is filed for the foreclosure of a mortgage upon which there shall be due any interest or installment of the principal and there are other installments not due, if the defendant pay into court the principal and interest due, with costs, at any time before final judgment, the complaint shall be dismissed. If such payment be made after final judgment, proceedings thereon shall be stayed, subject to be enforced upon a subsequent default in the payment of any installment of the principal or interest thereafter becoming due. In the final judgment the court shall direct at what time and upon what default any subsequent execution shall issue.

**§ 9. A Part of Premises May be Sold.**—SEC. 415. In such cases, after final judgment, the court shall ascertain whether the property can be sold in parcels, and if it can be done without injury to the interests of the parties, the court shall direct so much only of the premises to be sold as will be sufficient to pay the amount then due on the mortgage with costs, and the judgment shall remain and be enforced upon any subsequent default, unless the amount due shall be paid before execution of the judgment is perfected.

**§ 10. Whole Premises Must be Sold: When.**—SEC. 416. If the mortgaged premises cannot be sold in parcels, the court shall order the whole to be sold, and the proceeds of the sale shall be applied first to the payment of the principal due, interest and costs, and then to the residue secured by the mortgage and not due; and if the residue do not bear interest, a deduction shall be made therefrom by discounting the legal in-

<sup>2</sup> See No. 309, *infra*.

terest, and in all cases where the proceeds of sale shall be more than sufficient to pay the amount due and costs, the surplus shall be paid to the mortgage debtor, his heirs and assigns.

§ 11. **How Equity of Redemption Foreclosed.**—SEC 417. Whenever an execution shall issue upon a judgment recovered for a debt secured by a mortgage of real property, the plaintiff shall endorse thereon a brief description of the mortgaged premises, and a sale of the mortgaged premises upon such execution shall foreclose the equity of redemption.

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**No. 309.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 86, chap. 43.) This No. is verbatim as No. 908, except § 1 of said No. at <sup>2</sup> instead of "the county" read "the district or county," and § 5 at <sup>3</sup> instead of "express written agreement," read "express agreement." For repealing clause see No. 117, § 2.

**No. 310.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS."<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

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§ 2. **Notice of Sale: How Given.**—SEC 8. *Be it further enacted.* That when a judgment of foreclosure upon a mortgage of real estate has been rendered, and a further judgment, that if the mortgaged premises do not satisfy the demand, other property of the judgment debtor shall be seized and sold to satisfy any remaining balance and costs of suit, after the application of the proceeds of the sale of such mortgaged premises to said judgment has also been rendered, and after the sale and application of the proceeds of the sale of such mortgaged premises, as by law provided, there shall remain a balance due upon such judgment, then in selling other real estate of the judgment debtor to satisfy such judgment it shall only be necessary to advertise the sale of such other real estate for the period of two weeks prior to the sale, in a newspaper published in the county or judicial district where the same is located.

§ 3. **Date in Effect.**—SEC. 9 This act to take effect and be in force from and after its passage.

<sup>1</sup> Passed Jan. 30, 1861. (See Eighth Reg. Sess. 1860-61, p. 50.) The sections given in this No. do not appear in most of the volumes of printed laws, though in some they appear as *erratum*. In the original law they appear *after* the signatures of the presiding officers, and this is given as a reason why they were overlooked by the printer.

**No. 311.—AN ACT IN RELATION TO THE PRACTICE IN THE DISTRICT COURTS OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. **Assignment of Mortgage: Execution and Judgment.**—SECTION 1. *Be it enacted, etc.*, That in all cases of assessment <sup>2</sup> of all right and interest in and to a mortgage, or any other instrument writing, and in any judgment recovered or to be recovered thereon, or either, and judgment shall have been recovered in the name of the assignor, execution may issue in the name of the assignee upon his assignment being recorded in the office of the clerk of the court in which the judgment is recovered.

<sup>1</sup> Passed Jan. 29, 1862. (See Ninth Reg. Sess. 1861-62, p. 57.)

<sup>2</sup> Should be "assignment."

and the provisions of this act shall extend to all judgments heretofore recovered, as well as those hereafter recovered.

§ 2. **Date in Effect.**—SEC. 2. This act to take effect and be in force from and after the first day of April, 1862.

**No. 312.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

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CHAPTER XLVI.

§ 2. **When Action to Foreclose Lies.**—SEC. 444. When default is made in the performance of any condition contained in a mortgage, the mortgagee or his assigns may proceed in the district court of the district or county where the land or some part thereof lies, to foreclose the equity of redemption contained in the mortgage.

§ 3. **In What Case Remedy of Mortgagee Confined to Mortgage.**—SEC. 445. When there is no express agreement in the mortgage, nor any separate instrument given for the payment of the sum secured thereby, the remedy of the mortgagee shall be confined to the property mortgaged.

§ 4. **Order for Sale of Mortgaged Premises.**—SEC. 446. In rendering judgment of foreclosure, the court shall order the mortgaged premises, or so much thereof as may be necessary, to be sold to satisfy the mortgage and costs of the action. The payment of the mortgage debt, with interest and costs at any time before sale, shall satisfy the judgment.

§ 5. **In What Case Judgment May be Had for Deficit.**—SEC. 447. When there is an express agreement for the payment of the sum of money secured, contained in the mortgage or any separate instrument, the court shall direct in the order of the sale that the balance due on the mortgage and costs which may remain unsatisfied after the sale of the mortgaged premises, shall be levied of any property of the mortgaged debtor.

§ 6. **Sale: Order for, etc., to Issue to Sheriff.**—SEC. 448. A copy of the order of sale and judgment shall be issued and certified by the clerk, under the seal of the court, to the sheriff, who shall thereupon proceed to sell the mortgaged premises, or so much thereof as may be necessary to satisfy the judgment, interest and costs, as upon execution; and if any part of the judgment, interest and cost remain unsatisfied, the sheriff shall forthwith proceed to levy the residue of the property of the defendant.

§ 7. **No Foreclosure While Another Action for Same Debt Pending.**—SEC. 449. The plaintiff shall not proceed to foreclose his mortgage while he is prosecuting any other action for the same debt or matter which is secured by the mortgage, or while he is seeking to obtain execution of any judgment in such other action; nor shall he prosecute any other action for the same matter while he is foreclosing his mortgage or prosecuting a judgment of foreclosure.

§ 8. **Effect of Compliance With Conditions of Mortgage After Action Commenced.**—SEC. 450. Whenever a complaint is filed for the foreclosure of a mortgage upon which there shall be due any interest or installment of the principal, and there are other installments not due, if the defendant pay into the court the principal and interest due, with costs, any time before the final judgment, proceedings thereon shall be stayed, subject to be enforced upon a subsequent default in the payment of any installment of the principal or interest thereafter becoming due. In the

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 179.) In effect from date. For repealing clause see No. 116, § 3.



final judgment, the court shall direct at what time and upon what default any subsequent execution shall issue.

§ 9. **A Part of Premises May be Sold.**—SEC. 451. In such cases, after final judgment, the court shall ascertain whether the property can be sold in parcels, and if it can be done without injury to the interests of the parties, the court shall direct so much only of the premises to be sold as will be sufficient to pay the amount then due on the mortgage, with costs, and the judgment shall remain and be enforced upon any subsequent default, unless the amount due shall be paid before execution of the judgment is perfected.

§ 10. **Whole Premises Must be Sold: When.**—SEC. 452. If the mortgaged premises cannot be sold in parcels, the court shall order the whole to be sold, and the proceeds of the sale shall be applied first to the payment of the principal due, interest and costs, and then to the residue secured by the mortgage and not due; and if the residue due do not bear interest, a deduction shall be made therefrom by discounting the legal interest; and in all cases where the proceeds of the sale shall be more than sufficient to pay the amount due and costs, the surplus shall be paid to the mortgage debtor, his heirs and assigns.

§ 11. **How Equity of Redemption Foreclosed.**—SEC. 453. Whenever an execution shall issue upon a judgment recovered for a debt secured by a mortgage of real property, the plaintiff shall endorse thereon a brief description of the mortgaged premises, and a sale of the mortgaged premises upon such execution shall foreclose the equity of redemption.

§ 12. **Execution for Deficit—Notice.**—SEC. 454. When a judgment of foreclosure upon a mortgage of real estate has been rendered, and a further judgment, that if the mortgaged premises do not satisfy the demand, other property of the judgment debtor shall be seized and sold to satisfy any remaining balance and cost of suit, after the application of the proceeds of the sale of such mortgaged premises to said judgment has also been rendered, and after the sale and application of the proceeds of the sale of such mortgaged premises as by law provided, there shall remain a balance due upon such judgment, then in selling other and real estate of the judgment debtor to satisfy such judgment, it shall only be necessary to advertise the sale of such other real estate for the period of two weeks prior to the sale, in a newspaper published in the county or judicial district where the same is located, and if there be no newspaper published in the district or county, then in some newspaper having circulation in such district or county.

§ 13. **Confirmation of Sale—Rights of Possession.**—SEC. 455. Any person, other than the judgment debtor, claiming title in real estate and a right to the possession thereof, that has been sold upon order of sale or execution issued from the supreme or district courts, and which has been entered by the clerk in his docket for confirmation of sale, may, at any time during the term of court at which confirmation of sale is asked, and before the same is confirmed, come into court and file an affidavit of such title and right of possession, and it shall thereupon be the duty of the court to order the party asking the confirmation of sale to file an answer to the statements and allegations of the said affidavit, verified as pleadings in civil actions are by law required to be; and if the allegations of said affidavit are not denied by such answer, or if such party fail or refuse to answer as directed, then it shall be the duty of the court to refuse the confirmation of such sale; but if answer be filed as required, and the statements and allegations of said affidavit are denied by such answer, then the issue or issues made shall be tried as issues of fact are tried in civil actions in the district court.

§ 14. **Confirmation of Sale—Rights of Married Woman.**—SEC. 456. In case of a judgment of foreclosure having been rendered upon a mort-

gage executed by a married man, upon real estate, upon which the dwelling house occupied by his family is situate, and in the execution of which said mortgage the wife did not join, and the said premises have been sold pursuant to order of sale, she may at any time during the term of the court at which such sale has been entered by the clerk in his docket for confirmation, and before the same has been confirmed, come into court and file her affidavit, stating that the dwelling house occupied by her or her family is situate on the premises the sale of which is docketed for confirmation, and that said premises do not exceed in value the sum of five hundred dollars, and that she claims the same to be exempt from execution and sale, and it shall thereupon be the duty of the court to order the party asking confirmation of the sale to make and file an answer to the statements and allegations of the said affidavit, and if the same are not denied by such answer, or if such party shall fail or refuse to answer as directed, then it shall be the duty of the court to refuse the confirmation of such sale; but if answer be filed as required, and the allegations of the affidavit of claimant denied, then the issue or issues thus made shall be tried as issues of fact are tried in civil actions in the district court.

**No. 313.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

CHAPTER XLVI.

§ 2. **Foreclosure Necessary.**—SEC. 498. A mortgage of real property shall not be deemed a conveyance so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure and sale according to law.

CHAPTER L.

§ 3. **When Action to Foreclose Lies.**—SEC. 563. When default is made in the performance of any condition contained in a mortgage, the mortgagee or his assigns may proceed in the district court of the district or county where the land or some part thereof lies, to foreclose the equity of redemption contained in the mortgage.

§ 4. **In What Case Remedy of Mortgagee Confined to Mortgage.** SEC. 564. When there is no express agreement in the mortgage nor any separate instrument given for the payment of the sum secured thereby, the remedy of the mortgagee<sup>2</sup> shall be confined to the property mortgaged.

§ 5. **Order for Sale of Mortgaged Premises.**—SEC. 565. In rendering judgment of foreclosure, the court shall order the mortgaged premises, or so much thereof as may be necessary, to be sold to satisfy the mortgage and costs of the action. The payment of the mortgage debt, with interests and costs at any time before sale, shall satisfy the judgment.

§ 6. **In What Cases Judgment May be Had for Deficit.** SEC. 566. When there is an express agreement for the payment of the sum of money secured contained in the mortgage or any separate instrument, the court shall direct in the order of the sale that the balance due on the mortgage, and costs which may remain unsatisfied after the sale of the mortgaged premises shall be levied on any property of the mortgage debtor.

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blen. Seas. 1869, pp. 3, 129, 145.) For repealing clause see Nos. 119 and 118, § 3.

<sup>2</sup> See Nos. 314, 315, *infra*.

**§ 7. Decree: How Enforced.**—SEC. 567. A copy of the order of sale and judgment shall be issued and certified by the clerk under the seal of the court to the sheriff, who shall thereupon proceed to sell the mortgaged premises, or so much thereof as may be necessary to satisfy the judgment, interests and costs, as upon execution; and if any part of the judgment, interest and costs remain unsatisfied, the sheriff shall forthwith proceed to levy the residue of the property of the defendant. The sheriff shall endorse upon the order of sale the time when he received it, and all subsequent proceedings under the said order shall conform, except as hereinafter provided, to the provisions regulating sales of property upon execution.

**§ 8. No Foreclosure While Another Action for Same Debt Pending.** SEC. 568. The plaintiff shall not proceed to foreclose his mortgage while he is prosecuting any other action for the same debt or matter which is secured by the mortgage, or while he is seeking to obtain execution of any judgment in such other action; nor shall he prosecute any other action for the same matter while he is foreclosing his mortgage or prosecuting a judgment of foreclosure.

**§ 9. Effect of Compliance With Conditions of Mortgage After Action Commenced.**—SEC. 569. Whenever a complaint is filed for the foreclosure of a mortgage upon which there shall be due any interest or installment of the principal, and there are other installments not due, if the defendant pay into court the principal and interest due with costs, at any time before the final judgment, proceedings thereon shall be stayed, subject to be enforced upon a subsequent default in the payment of any installment of the principal or interest thereafter becoming due. In the final judgment the court shall direct at what time and upon what default any subsequent execution shall issue.

**§ 10. A Part of Premises May be Sold.**—SEC. 570. In such cases, after final judgment, the court shall ascertain whether the property can be sold in parcels, and if it can be done without injury to the interests of the parties, the court shall direct so much only of the premises to be sold as will be sufficient to pay the amount then due on the mortgage with costs, and the judgment shall remain and be enforced upon any subsequent default, unless the amount due shall be paid before execution of the judgment is perfected.

**§ 11. Whole Premises Must be Sold: When.**—SEC. 571. If the mortgaged premises cannot be sold in parcels, the court shall order the whole to be sold, and the proceeds of the sale shall be applied first to the payment of the principal due, interest and costs, and then to the residue secured by the mortgage and not due; and if the residue do not bear interest, a deduction shall be made therefrom by discounting the legal interest; and in all cases where the proceeds of the sale shall be more than sufficient to pay the amount due and costs, the surplus shall be paid to the mortgage debtor, his heirs and assigns.

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**§ 12. Execution for Deficit: Notice.**—SEC. 573. In all actions of foreclosure where there is a decree for the sale of the mortgaged premises or property and a judgment over for any deficiency remaining unsatisfied after applying the proceeds of the sale of mortgaged property, further levy and sales upon other property of the judgment debtor may be made under the same order of sale. In such sales it shall only be necessary to advertise notice for two weeks in a newspaper published in the district or county where the said property is located, and if there be no newspaper published therein, then in the most convenient newspaper having a circulation in such county. Nothing herein contained shall prevent the issue of an execution, as in ordinary cases, either for the whole mortgage debt or such deficiency, after applying the proceeds of the sale of mort-



gaged property. When, however, an execution shall issue upon a judgment recovered for a debt secured by mortgage, a schedule of the mortgaged property, real or personal, shall be endorsed upon such an execution and the sale thereof under such order shall foreclose the equity of redemption of the mortgage therein.

§ 13. **Publication of Notice.**—SEC. 574. When sales of other property not embraced in the mortgage or decree of sale are made under the order of sale, to satisfy any deficiency remaining due upon the judgment, two weeks publication of notice of such sale shall be sufficient. Such notice shall be published in a newspaper printed in the district or county where the property is situated, and if there be no newspaper published therein, then in the most convenient newspaper having a circulation in said district or county.

§ 14. **Lien of Judgment for Deficiency.**—SEC. 575. Judgments over for any deficiency remaining unsatisfied after application of the proceeds of sale of mortgaged property, either real or personal, shall be similar in all respects to other judgments for the recovery of money, and may be made a lien upon the property of a judgment debtor as other judgments, and the collection thereof enforced in the same manner.

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**No. 314.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN  
CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 131, chap. 46, sec. 496; p. 149, chap. 50, secs. 561 to 569, inclusive, 571, 572, 573.) This No. is verbatim as No. 313, *supra*, except § 4 of said No. at 2 instead of "mortgagee" read "mortgage." For repealing clause see No. 121, § 3.

**No. 315.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN  
CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 112, chap. 45, sec. 550; p. 127, chap. 50, secs. 614 to 621, inclusive, 623, 624, 625.) This No. is verbatim as No. 313, *supra*, except § 4 of said No. at 2 instead of "mortgagee" read "mortgage." For date when in effect, repealing clause, etc., see No. 122, §§ 3, 4.

**No. 316.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN  
CIVIL ACTIONS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XLVI.

\* \* \* \* \*

§ 2. **Foreclosure Necessary.**—SEC. 546. A mortgage of real property shall not be deemed a conveyance so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure and sale according to law.

\* \* \* \* \*

CHAPTER LI.

§ 3. **When Action to Foreclose Lies.**—SEC. 609. When default is made in the performance of any condition contained in a mortgage, the mortgagee or his assigns may proceed in the district court of the district or county where the land or some part thereof lies, to foreclose the equity of redemption contained in the mortgage.

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 125, 135.) For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.



**§ 4. In What Case Remedy of Mortgagee Confined to Mortgage.**—SEC. 610. When there is no express agreement in the mortgage nor any separate instrument given for the payment of the sum secured thereby, the remedy of the mortgagee shall be confined to the property mortgaged.

**§ 5. Order for Sale of Mortgaged Premises.**—SEC. 611. In rendering judgment of foreclosure, the court shall order the mortgaged premises, or so much thereof as may be necessary, to be sold to satisfy the mortgage and costs, of the action. The payment of the mortgaged debt, with interest and costs at any time before sale, shall satisfy the judgment.

**§ 6. In What Case Judgment May be Had for Deficit.**—SEC. 612. When there is an express agreement for the payment of the sum of money secured contained in the mortgage or any separate instrument, the court shall direct in the decree of foreclosure that the balance due on the mortgage and costs which may remain unsatisfied after the sale of the mortgaged premises, shall be satisfied from any property of the mortgage debtor.

**§ 7. Decree: How Enforced.**—SEC. 613. The decree may be enforced by execution as an ordinary decree for the payment of money. The execution shall contain a description of the mortgaged property. The sheriff shall endorse upon the execution the time when he receives it, and he shall thereupon forthwith proceed to sell the mortgaged premises, or so much thereof as may be necessary to satisfy the judgment, interests and costs, upon giving the notice prescribed in section 359,<sup>2</sup> relating to sales of property under execution. And if any part of the judgment, interest and costs remain unsatisfied, the sheriff shall forthwith proceed to levy upon any property of the defendant not exempt from execution, and all subsequent proceedings under said execution shall conform, except as herein provided, to the provisions regulating sales of property upon execution.

**§ 8. No Foreclosure While Another Action for Same Debt Pending.**—SEC. 614. The plaintiff shall not proceed to foreclose his mortgage while he is prosecuting any other action for the same debt or matter which is secured by the mortgage, or while he is seeking to obtain execution of any judgment in such other action; nor shall he prosecute any other action for the same matter while he is foreclosing his mortgage or prosecuting a judgment of foreclosure.

**§ 9. Effect of Compliance With Conditions of Mortgage After Action Commenced.**—SEC. 615. Whenever a complaint is filed for the foreclosure of a mortgage upon which there shall be due any interest or installment of the principal, and there are other installments not due, if the defendant pay into the court the principal and interest due, with costs, at any time before the final judgment, proceedings thereon shall be stayed, subject to be enforced upon a subsequent default in the payment of any installment of the principal or interest thereafter becoming due. In the final judgment the court shall direct at what time and upon what default any subsequent execution shall issue.

**§ 10. A Part of Premises May be Sold.**—SEC. 616. In such cases after final judgment the court shall ascertain whether the property can be sold in parcels, and if it can be done without injury to the interests of the parties, the court shall direct so much only of the premises to be sold as will be sufficient to pay the amount then due on the mortgage with costs, and the judgment shall remain and be enforced upon any subsequent default, unless the amount due shall be paid before execution of the judgment is perfected.

**§ 11. Whole Premises Must be Sold: When.**—SEC. 617. If the mortgaged premises cannot be sold in parcels, the court shall order the whole

<sup>2</sup> See Nos. 265 and 259, § 3, *supra*.

to be sold, and the proceeds of the sale shall be applied first to the payment of the principal due, interest and costs, and then to the residue secured by the mortgage and not due; and if the residue do not bear interest, a deduction shall be made therefrom by discounting the legal interest; and in all cases where the proceeds of the sale shall be more than sufficient to pay the amount due and costs, the surplus shall be paid to the mortgage debtor, his heirs and assigns.

\* \* \* \* \*

§ 12. **Decree and Execution for Deficit.**—SEC. 619. The mortgagee or holder of the lien may proceed upon his mortgage or lien; if there be a separate obligation in writing to pay the same, secured by said mortgage or lien, he may bring suit upon such separate promise. When he proceeds on the mortgage, if there be a specific agreement therein contained for the payment of a certain sum, or there is a separate obligation for the said sum, in addition to a decree of sale of mortgaged property, judgment shall be rendered for the amount due upon said mortgage or other instrument, the payment of which is thereby secured. The decree shall direct the sale of mortgaged property, and if the proceeds of said sale be insufficient under the execution, the sheriff is authorized to levy upon and sell other property of the mortgage debtor not exempt from execution for the sum remaining unsatisfied.

§ 13. **Notice of Sale for Deficiency.**—SEC. 620. In all actions of foreclosure, where there is a decree for the sale of the mortgaged premises or property, and a judgment over for any deficiency remaining unsatisfied after applying the proceeds of the sale of mortgaged property, further levy and sales upon other property of the judgment debtor may be made under the same execution. In such sales it shall only be necessary to advertise notice for two weeks in a newspaper published in the district or county where the said property is located, and if there be no newspaper published therein, then in the most convenient newspaper having a circulation in such county.

§ 14. **Publication of Notice.**—SEC. 621. When sales of other property not embraced in the mortgage or decree of sale are made under the execution to satisfy any deficiency remaining due upon judgment, two weeks publication of notice of such sale shall be sufficient. Such notice shall be published in a newspaper printed in the district or county where the property is situated, and if there be no newspaper published therein, then in the most convenient newspaper having a circulation in said district or county.

§ 15. **Lien of Judgment for Deficiency.**—SEC. 622. Judgments over for any deficiency remaining unsatisfied after application of the proceeds of sale of mortgaged property, either real or personal, shall be similar in all respects to other judgments for the recovery of money, and may be made a lien upon the property of a judgment debtor as other judgments, and the collections thereof enforced in the same manner.

## TITLE II.—ADOPTION.

No. 317.—AN ACT RELATIVE TO ADOPTION.<sup>1</sup>

§ 1. **Who May be Adopted.**—SECTION 1. *Be it enacted, etc.,* That any minor child may be adopted by any adult person, in the cases and subject to the rules prescribed in this act.

§ 2. **Age of Person Adopting.**—SEC. 2. The person adopting the child must be at least ten years older than the person adopted.

§ 3. **Wife's Consent Necessary.**—SEC. 3. A married man, not lawfully separated from his wife, cannot adopt a child without the consent of his wife.

§ 4. **Consent of Parents Necessary: Exceptions.**—SEC. 4. A legitimate child cannot be adopted without the consent of its parents, if living, nor an illegitimate child without the consent of its mother, if living, except that consent is not necessary from a father or mother deprived of civil rights, or adjudged guilty of adultery or of cruelty, and for either cause divorced, or adjudged to be a habitual drunkard, or who has been judicially deprived of the custody of the child on account of cruelty or neglect.

§ 5. **When Consent of Child Necessary.**—SEC. 5. The consent of a child, if over the age of twelve years, is necessary to its adoption.

§ 6. **How Adopted.**—SEC. 6. The person adopting a child and the child adopted, and the other persons whose consent is necessary, must appear before the judge of the probate court of the county where the person adopting resides, and the necessary consent must thereupon be signed, and an agreement be executed by the person adopting, to the effect that the child shall [be] adopted, and treated in all respects as his own lawful child should be treated.

§ 7. **Duty of Probate Judge.**—SEC. 7. The probate judge must examine all persons appearing before him pursuant to the last section, each separately, and if satisfied that the interests of the child will be promoted by the adoption, he must make an order declaring that the child shall thenceforth be regarded and treated in all respects as the child of the person adopting.

§ 8. **Relation of Parties After Adoption.**—SEC. 8. A child when adopted takes the name of the person adopting, and the two thenceforth sustain towards each other the legal relation of parent and child, and have all the rights and are subject to all the duties of that relation.

§ 9. **Duties of Parents Cease.**—SEC. 9. The parents of an adopted child are from the time of the adoption relieved of all parental duties towards and all responsibility for the child so adopted, and have no right over it.

§ 10. **Illegitimate Child.**—SEC. 10. The father of an illegitimate child by publicly acknowledging it as his own, receiving it as such, with the consent of his wife if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this act do not apply to the adoption provided for by this section.

§ 11. **Special Acts Repealed, etc.**—SEC. 11. All special acts heretofore passed providing for the adoption of any child are hereby continued

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 110.) In effect from date.

in full force and effect, and all children so adopted with their surnames changed to that of the party adopting, shall hereafter sustain to each other the relation prescribed in this act, as though adopted under its provisions, that is to say, the relation of parent and child, and all such adopted children shall be treated and regarded as the child of the party adopting.

\* \* \* \* \*

**No. 318.—AN ACT TO AUTHORIZE THE ADOPTION OF CHILDREN.<sup>1</sup>**

§ 1. **Who May Adopt: How.**—SECTION 1. *Be it enacted, etc.,* That any inhabitant of this Territory not married, or any husband and wife jointly, may petition the probate court of their proper county for leave to adopt a minor child not theirs by birth, and for a change of name of said child; but a written consent must be given to such adoption by the child, if of the age of fourteen years, and by each of his or her living parents who is not hopelessly insane or a confirmed drunkard. If there be no such parents, or if the parents be unknown or shall have abandoned such child, or if such parents or either of them are hopelessly insane, or a confirmed drunkard, then by the legal guardian; if there be no such guardian, then by a discreet and suitable person appointed by said court to act in the proceedings as the next friend of such child: *Provided, however,* That if the parents are living separate and apart, the consent of both is not required, but such consent may be given by the parent having the care, custody and control of such child.

§ 2. **Wife to be Examined Separate and Apart.**—SEC. 2. That, if the petition be filed by husband and wife, the court shall examine the wife separate and apart from her husband, and shall refuse leave for such adoption unless the court shall be satisfied from such examination that the wife of her own free will and accord desires such adoption.

§ 3. **Duty of Court.**—SEC. 3. That, upon the compliance with the foregoing provisions, if the court shall be satisfied of the ability of the petitioner or petitioners to bring up and educate the child properly, having reference to the degree and condition of the child's parents, and shall be satisfied of the fitness and propriety of such adoption, the court shall make an order setting forth the facts, and declaring that from that date such child, to all legal intents and purposes, is the child of the petitioner or petitioners, and that the name of the child is hereby changed.

§ 4. **Relation of Parties.**—SEC. 4. That by such order the natural parents shall be divested of all legal rights and obligations in respect to such child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them, and shall be, to all intents and purposes, the child and legal heir of his or her adopter or adopters, entitled to all the rights and privileges and subject to all the obligations of a child of the adopter or adopters begotten in lawful wedlock: *Provided,* That on the decease of parents who have adopted a child or children under this act, and the subsequent decease of such child or children without issue, the property of such adopting parents shall descend to their next of kin, and not to the next of kin of such adopted child or children.

§ 5. **Repealing Clause.**—SEC. 5. That an act entitled "An act relative to adoption," approved November 12, 1875, be and the same is hereby repealed: *Provided, however,* That no right or privilege established under said act shall be impaired in any manner by such repeal.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Bien. Sess. 1879, p. 136.) In effect from date.

**No. 319.—CHAPTER CXII—TO AUTHORIZE THE ADOPTION OF CHILDREN.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> (See Code 1881, p. 281.) This No. is *verbatim* as No. 318, *supra*. For repealing clause, date when in effect, etc., see Nos. 338, 339, 340.

## TITLE III.—AGE OF MAJORITY.

**No. 320.—AN ACT TO FIX THE AGE OF MAJORITY.<sup>1</sup>**

§ 1. **Males, Twenty-one—Females, Eighteen.**—SECTION 1. *Be it enacted, etc.,* That males shall be deemed and taken to be of full age for all purposes at the age of twenty-one years and upwards; females shall be deemed and taken to be of full age at the age of eighteen years and upwards.

§ 2. **Married Females.**—SEC. 2. All females married to a person of full age shall be deemed and taken to be of full age.

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, p. 407.)

**No. 321.—AN ACT TO FIX THE AGE OF MAJORITY.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 19, 1861. (See Tenth Reg. Sess. 1862-63, p. 434.) This No. is verbatim as No. 320, *supra*.

**No. 322.—CHAPTER CLXXVII—AGE OF MAJORITY.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Approved Dec. 6, 1881. (See Code 1881, p. 408.) This No. is verbatim as No. 320, *supra*.

## TITLE IV.—ALIENS, RIGHTS OF.

**No. 323.—AN ACT TO ENABLE ALIENS TO ACQUIRE AND CONVEY REAL ESTATE.<sup>1</sup>**

§ 1. **May Acquire, Hold and Convey Lands, Etc.**—SEC. 1. *Be it enacted, etc.,* That any alien may acquire and hold lands, or any right thereto or interest therein, by purchase, devise or descent, and he may convey, mortgage and devise the same; and, if he shall die intestate, the same shall descend to his heirs, and in all cases such lands shall be held, conveyed, mortgaged or devised, or shall descend, in like manner and with like effect as if such alien were a native citizen of this Territory or of the United States.

§ 2. **Prior Conveyances Valid.**—SEC. 2. The title to any lands heretofore conveyed shall not be questioned, nor in any manner affected, by reason of the alienage of any person from or through whom such title may have been acquired.

<sup>1</sup> Passed Jan. 27, 1864. (See Eleventh Reg. Sess. 1863-64, p. 12.)

**No. 324.—AN ACT PERMITTING ALIENS TO ACQUIRE, HOLD AND DISPOSE OF REAL ESTATE, AND TO BUILD, LEASE OR PURCHASE RAILROADS, TRAMWAYS AND BRIDGES.<sup>1</sup>**

§ 1. **May Acquire, Hold and Convey Lands, etc.**—SEC. 1. *Be it enacted, etc.,* That any alien may acquire and hold lands, or any right

<sup>1</sup> Approved Nov. 5, 1875. (See Fifth Blen. Sess. 1875, p. 112.) In effect from date.

thereto or interest therein, by purchase, devise or descent, and he may convey, mortgage and devise the same; and, if he shall die intestate, the same shall descend to his heirs; and in all cases such lands shall be held, conveyed, mortgaged or devised, or shall descend, in like manner and with like effect as if such alien were a citizen of this Territory or of the United States.

§ 2. **May Own, Mortgage, etc., Railways.**—SEC. 2. That any alien, whether a resident of this Territory or not, shall be and is hereby permitted to construct, build, equip, lease, use, sell, hold and dispose of, or acquire by purchase or otherwise, any railroad, tramway or bridge in this Territory, and shall be and is hereby allowed to work and operate the same, to acquire and hold lands in connection therewith, to mortgage the same or said railroad, tramway or bridge, and to transact the business, collect and receive tolls, hold, use and dispose of the franchise and rights of any such railroad, tramway or bridge, with the same powers and privileges in all respects as now or may hereafter belong to citizens of this Territory.

\* \* \* \* \*

**No. 325.—CHAPTER CLXXIV: PERMITTING ALIENS TO ACQUIRE, HOLD AND DISPOSE OF REAL ESTATE, AND TO BUILD, LEASE, OR PURCHASE RAILROADS, TRAMWAYS AND BRIDGES.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 416, chap. 184, secs. 2419, 2420.) This No. is *verbatim* as No. 324, *supra*.

**No. 326.—AN ACT TO AMEND SECTIONS 2419 AND 2420 OF THE CODE OF WASHINGTON TERRITORY, RELATING TO ALIENS.<sup>1</sup>**

§ 1. **May Acquire, Hold, Convey Lands, etc.**—*Be it enacted, etc.* SECTION 1. That section 2419<sup>2</sup> of the Code of Washington Territory be and the same is amended to read as follows: Section 2419. Any alien, except such as by the laws of the United States are incapable of becoming citizens of the United States, may acquire and hold lands or any right thereto or interest therein by purchase, devise or descent, and he may convey, mortgage and devise the same, and if he shall die intestate the same shall descend to his heirs; and in all cases such lands shall be held conveyed, mortgaged or devised, or shall descend, in like manner and with like effect as if such alien<sup>3</sup> were a citizen of this Territory or of the United States.

§ 2. **May Own, Mortgage, etc., Railways.**—SEC. 2. That section 2420<sup>4</sup> of the Code of Washington Territory be and the same is hereby amended to read as follows: "Section 2420. That any alien, except such as by the laws of the United States are incapable of becoming citizens of the United States, whether a resident of this Territory or not, shall be and is hereby permitted to construct, build, equip, lease, use, sell, hold and dispose of, or acquire by purchase, or otherwise, any railroad, tramway or bridge in this Territory, and shall be and is hereby allowed to work and operate the same, to acquire and hold lands in connection therewith, to mortgage the same, or said railroad, tramway or bridge, and to transact the business, collect and receive tolls, hold, use and dispose of the franchise and rights of any such railroad, tramway or bridge, with the same powers and privileges in all respects as now or may hereafter belong to citizens of this Territory.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 29, 1886. (See Tenth Blen. Sess. 1885-6, p. 102.) In effect from date.

<sup>2</sup> See Nos. 325 and 324, § 1.

<sup>3</sup> Should be "alien."

<sup>4</sup> See Nos. 325 and 324, § 2.



## TITLE V.—CONSTRUCTION OF STATUTES.

**No. 327.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

## CHAPTER LIV.

§ 2. **"Officer" Defined.**—SEC. 501. Whenever any term indicating an officer is used, it shall be construed, when required, to mean any person authorized by law to discharge the duties of such officer.

§ 3. **Singular Number.**—SEC. 502. Words importing the singular number only may also be applied to the plural of persons and things, and words importing the masculine gender only may be extended to females also.

§ 4. **Actions Already Commenced.**—SEC. 503. In actions already commenced, the \* \* \* rendition of judgment, and all other proceedings shall conform to the provisions of this act as far as practicable.

§ 5. **This Act to be Liberally Construed.**—SEC. 504. The provisions of this act shall be liberally construed, and shall not be limited by any rule of strict construction.

§ 6. **This Act Not Retroactive.**—SEC. 505. No part of this act shall be retroactive unless expressly so declared.

\* \* \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, pp. 129, 221.) For repealing clause see No. 115, § 2.

**No. 328.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS."<sup>1</sup>**

§ 1. **District Court—District or County.**—SECTION 1 *Be it enacted, etc.*, For all necessary purposes connected with the district court, each district shall be considered and held to be but one county; and whenever in the act to which this is an amendment, the words district or county occur, the same may be rendered county or district, as may be necessary to conform the practice of the courts to the act of Congress approved August 16, 1856. *Provided*, That nothing herein contained shall be construed to confer jurisdiction upon county officers, or extend their powers beyond the limits of their counties.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-57, p. 7.)

**No. 329.—AN ACT RELATIVE TO THE CONSTRUCTION OF STATUTES.<sup>1</sup>**

§ 1. **"One," "Two," "Sex," "Person," "Officer," Construed.**—SECTION 1. *Be it enacted, etc.*, That in any law of this Territory now in force, or hereafter to be enacted, every term implying one only shall, when required, be construed to mean two or more, and every term implying two or more shall also be construed to mean, when required, but one, except in cases where the number is a substantive part of the act; and every term implying sex shall, with a like exception, when necessary, be construed to mean both, either, or neither. Whenever the term "person" is

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-57, p. 45.)



used to donate the party to a suit, or the party whose property is the subject of the action, or of an offense, or against whom anything is done, with intent to injure or defraud, the term may be construed to include the United States, this Territory, or any state or territory,<sup>1</sup> or any public or private corporation, as well as an individual; and whenever the word "officer" is used, it shall be construed to mean any person discharging the duties of such officer.

**No. 330.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER LXIX.<sup>2</sup>

\* \* \* \* \*

§ 2. **How Time Computed.**—SEC. 478. The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 3. **Process: How Directed and Executed.**—SEC. 479. All process issuing out of the district court shall be directed to the sheriff of the county in which it is <sup>a</sup> to be served, and be by him executed according to law.

§ 4. **When no Sheriff, etc., Who Shall Perform Duty.**—SEC. 480. When there is no sheriff of a county, or he is disqualified from any cause from discharging any particular duty, it shall be lawful for the officer or person commanding or desiring the discharge of that duty to appoint some suitable person, a citizen of the county, to execute the same: *Provided*, That final process shall in no case be executed by any other person than the legally authorized officer, or in case he is disqualified, some suitable person, appointed by the court or judge thereof out of which the process issues, who shall make such appointment in writing, \* \* \*

§ 5. **Notice: Service of—Proof of.**—SEC. 481. In all cases where notice is required by this act, it shall be in writing, and must be duly served upon the party. If served by an officer whose duty it is to serve process, his return shall be sufficient. It may be served, however, when not otherwise especially provided herein, by any disinterested person, in which event proof of service must be established by the affidavit of the person making such service.

\* \* \* \* \*

CHAPTER L.

§ 6. **District Court—District or County.**—SEC. 495. For all necessary purposes connected with the district court, each district shall be considered and held to be but one county; and whenever in this act the words district or county occur, the same may be rendered county or district, as may be necessary [to conform the practice of the courts to the act of Congress approved August 16, 1856:]<sup>3</sup> *Provided*, That nothing herein contained shall be construed to confer jurisdiction upon county officers, or extend their powers beyond the limits of their counties.

§ 7. **"Officer."**—SEC. 496. Whenever any term indicating an officer is used, it shall be construed, when required, to mean any person authorized by law to discharge the duties of such officer.

<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1859-60, pp. 3, 99, 102.) For repealing clause see No. 117, § 2.

<sup>2</sup> Should be XLIX.

<sup>3</sup> See Nos. 334, 335, 337, *infra*. The [ ] shown here do not appear in this act; they are inserted for convenient reference.

<sup>a</sup> See Nos. 335, 337, *infra*.

§ 8. **Singular Number.**—SEC. 497. Words importing the singular number only may also be applied to the plural of persons and things, and words importing the masculine gender only may be extended to females also.

§ 9. **Actions Already Commenced.**—SEC. 498. In actions already commenced, the \* \* \* rendition of judgment, and all other \* proceedings shall conform to the provisions of this act, as far as practicable.

§ 10. **This Act to be Liberally Construed.**—SEC. 499. The provisions of this act shall be liberally construed, and shall not be limited by any rule of strict construction.

\* \* \* \* \*  
\* See Nos. 332, 334, 335, 337, *infra*.

**No. 331.—AN ACT TO CREATE AND REGULATE THE OFFICE OF SHERIFF<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*  
§ 2. **Powers of Deputy.**—SEC. 3. Every deputy sheriff shall possess all the power and may perform any of the duties prescribed by law to be performed by the sheriff or by his deputies; \* \* \*

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 557.)

**No. 332.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN  
CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 26, 1863. (See Tenth Reg. Sess. 1862-63, pp. 81, 193, 197, chap. 52, secs. 525 to 528, inclusive.) This No. is *verbatim* as No. 330, *supra*, except at \* the word "other" is omitted. For repealing clause see No. 118, § 3.

**No. 333.—AN ACT TO PRESCRIBE THE TIME WHEN ALL LAWS OF A  
GENERAL NATURE SHALL BE DEEMED TO BE IN FORCE.<sup>1</sup>**

§ 1. **Laws in Effect Sixty Days After Adjournment Legislature:**  
**Exception.**—*Be it enacted, etc.*, That, from and after the date of the passage of this act, all laws made and passed of a general nature shall not be deemed to have or take effect until sixty days after the sitting of the Legislative Assembly has expired, unless otherwise directed.

<sup>1</sup> Approved Jan. 16, 1868. (See First Bien. Sess. 1867-68, p. 63.)

**No. 334.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN  
CIVIL ACTIONS<sup>1</sup>**

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<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 3, 172, chap. 62, secs. 685 to 688, inclusive; p. 175, chap. 63, secs. 696 to 700, inclusive.) This No. is *verbatim* as No. 330, except § 6 of said No. at \* the words included in [ ] are omitted, and § 9 at \* the word "other" is omitted. For repealing clause see Nos. 119 and 118, § 8.

**No. 335.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN  
CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 3, 176, chap. 62, secs. 683 to 686, inclusive, p. 179, chap. 63, secs. 691 to 698, inclusive.) This No. is *verbatim* as No. 330, except § 3 of said No. at \* instead of "is" read "was," and § 6 at \* the words included in [ ] are omitted, and § 9 at \* the word "other" is omitted. For repealing clause see No. 121, § 8.

**No. 336.—AN ACT DEFINING THE WORD MONTHS.<sup>1</sup>**

§ 1. "**Month**" Defined.—SEC. 1. That the word "month" or "months," whenever the same occurs in the statutes of this Territory now in force, or in statutes hereafter enacted, or in any contract made in this Territory, shall be taken and construed to mean calende[a]r.

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<sup>1</sup> Approved Oct. 30, 1877. (See Sixth Bien. Sess. 1877, p. 333.) In effect from date.

**No. 337.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 151, chap. 61, secs. 748 to 751, inclusive; p. 152, chap. 62, secs. 759 to 763, inclusive.) This No. is *verbatim* as No. 330, except § 3 of said No. at 8 instead of "is" read "was," and § 6 at 4 the words included in [ ] are omitted, and § 9 at 2 the word "other" is omitted. For date when in effect and repealing clause see No. 122, §§ 3, 4.

**No. 338.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER LXIV.

\* \* \* \* \*

§ 2. **How Time Computed.**—SEC. 743. The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 3. **Process: How Directed and Executed.**—SEC. 744. All process issuing out of the district court shall be directed to the sheriff of the county in which it is to be served, and be by him executed according to law.

§ 4. **When no Sheriff, etc., Who Shall Perform Duty.**—SEC. 745. When there is no sheriff of a county, or he is disqualified from any cause from discharging any particular duty, it shall be lawful for the officer or person commanding or desiring the discharge of that duty to appoint some suitable person, a citizen of the county, to execute the same: *Provided*, That final process shall in no case be executed by any other person than the legally authorized officer, or in case he is disqualified, some suitable person appointed by the court or judge thereof out of which the process issues, who shall make such appointment in writing; and before such appointment shall take effect, the person so appointed shall give security to the party interested for the faithful performance of his duties, which bond of suretyship shall be in writing, be approved by the court or judge appointing him, and be placed on file with the papers in the case.

§ 5. **Notice: Service of—Proof of.**—SEC. 746. In all cases where notice is required by this Code it shall be in writing, and must be duly served upon the party. If served by an officer whose duty it is to serve process, his return shall be sufficient. It may be served, however, when not otherwise especially provided herein, by any disinterested person; in which event proof of service must be established by the affidavit of the person making such service: *Provided*, The written admission of service of the party, his agent or attorney, shall be equivalent to personal service.

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<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 35, 154, 155.)

## CHAPTER LXV.

§ 6. **District Court—District or County.**—SEC. 754. For all necessary purposes connected with the district court, each district shall be considered and held to be but one county; and whenever in this Code the words district or county occur, the same may be rendered county or district, as may be necessary: *Provided*, That nothing herein contained shall be construed to confer jurisdiction upon county officers or extend their powers beyond the limits of their counties.

§ 7. **"Officer."**—SEC. 755. Whenever any term indicating an officer is used, it shall be construed, when required, to mean any person authorized by law to discharge the duties of such officer.

§ 8. **Singular Number.**—SEC. 756. Words importing the singular number only may also be applied to the plural of persons and things, and words importing the masculine gender only may be extended to females also.

§ 9. **Actions Already Commenced.**—SEC. 757. In actions already commenced, the \* \* \* rendition of judgment and all proceedings shall conform to the provisions of this Code as far as practicable

§ 10. **Code to be Liberally Construed.**—SEC. 758. The provisions of this Code shall be liberally construed, and shall not be limited by any rule of strict construction.

§ 11. **"Month."**—SEC. 759. That the word "month" or "months," whenever the same occurs in the statutes of this Territory now in force, or in statutes hereafter enacted, or in any contract made in this Territory, shall be taken and construed to mean calendar

§ 12. **This Code Not Retroactive.**—SEC. 760. No action or proceeding commenced before this Code takes effect, and no right accrued, is affected by its provisions; but the proceedings therein must conform to the requirements of this Code as far as applicable.

§ 13. **Provisions of this Code Continuations of Existing Statutes.**—SEC. 761. The provisions of this Code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof and not as new enactments.

§ 14. **Statute Law, etc., Unless Specially Continued, is Repealed.**—SEC. 762. No statute law or rule is continued in force because it is consistent with the provisions of this Code on the same subject; but in all cases provided for by this Code, all statutes, laws and rules heretofore in force in this Territory, whether consistent or not with the provisions of this Code, unless expressly continued in force by it, are repealed and abrogated.

§ 15. **Repeal Does Not Revive Former Laws, etc.**—SEC. 763. This repeal or abrogation does not revive any former law heretofore repealed, nor does it affect any rights already existing or accrued, or any action or proceeding already taken, except as in this Code provided; nor does it affect any private statute not expressly repealed.

No. 339.—PROBATE PRACTICE ACT.<sup>1</sup>

\* \* \* \* \*

## CHAPTER CXV.

§ 1. **Provisions This Code Continuations of Existing Statutes.**—SEC. 1681. The provisions of this Code, so far as they are substantially the same

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, p. 285.) This No. appears in the Code as part of the "Probate Practice Act." It will be observed that the comprehensive word "Code" is used as well as the restrictive word "act." For this reason this No. is taken out of what is doubtless its proper place, viz., among the laws relative to probate courts, etc. In effect from date.

as existing statutes, must be construed as continuations thereof, and not as new enactments.

**§ 2. This Code Not Retroactive.**—SEC. 1682. No action or proceeding commenced before this Code takes effect, and no right accrued, is affected by its provisions, but the proceedings therein must conform to the requirements of this Code as far as applicable.

**§ 3. Limitation of Rights and Remedies.**—SEC. 1688. When a limitation or a period of time prescribed in any existing statute for acquiring a right or barring a remedy has begun to run before this Code takes effect, and the same or any other limitation is prescribed in this Code, the time which is run shall be deemed part of the time prescribed as such limitation.

**§ 4. Statute Law, etc., Unless Expressly Continued, is Repealed.**—SEC. 1684. No statute, law or rule is continued in force because it is consistent with the provisions of this Code on the same subject; but in all cases provided for by this Code, all statutes, laws and rules heretofore in force in this Territory, whether consistent or not with the provisions of this act, unless expressly continued in force by it, are repealed and abrogated.

**§ 5. Repeal Does Not Revive Former Laws.**—SEC. 1685. This repeal or abrogation does not revive any former law heretofore repealed, nor does it affect any right already existing or accrued, or any action or proceeding already taken, except as in this Code provided; nor does it affect any private statute not expressly repealed.

**§ 6. This Act to be Liberally Construed.**—SEC. 1686. The provisions of this act shall be liberally construed, and shall not be limited by any rule of strict construction.

#### **No. 340.—CHAPTER CCLV.—THE CODE.<sup>1</sup>**

**§ 1. Effect of Laws of Eighth Biennial and Extra Session, 1881.**—SEC. 3319. All acts of a general nature, revised and amended and reenacted at the eighth biennial and the present extra session of the Legislative Assembly, so soon as such acts shall take effect, shall be taken and construed as repealing all prior laws relating to the same subject, but the provisions of the Code so far as they are the same as those of prior laws shall be construed as continuations of such laws and not as new enactments.

**§ 2. All Laws of General Nature, Not Repealed, in Force.**—SEC. 3320. All acts or parts of acts of a general nature, in force at the commencement of the eighth biennial session of the Legislative Assembly, and not repealed, shall be and the same are hereby continued in full force and effect, unless the same be repugnant to the act upon the same subject-matter passed or revised at the eighth biennial or present extra session of the Legislature.

**§ 3. Private Acts, etc.: How Published.**—SEC. 3321. \* \* \* All acts or parts of acts of a private, local or temporary nature, or especially applicable to particular cities, towns or counties, and all acts and provisions not hereinafter directed to be published in the Code, shall be published by the secretary of the Territory, as directed by law.

**§ 4. Codification of Laws: Powers and Duties of Codifier.**—SEC. 3322. That John P. Judson be and he is hereby appointed to index the Code and to prepare the manuscript for publication, and he is hereby di-

<sup>1</sup> (See Code 1881, p. 578.) The dates given in this book to all acts taken from "Code 1881" are the dates of passage or approval appearing on the original acts and merely given as information. This fact should not be forgotten in determining the date when such acts take effect.



rected to proceed with all haste and within the shortest time possible consistent with his duties to collect, compile, arrange and classify the several acts originating in the eighth biennial and present extra session, and hereinafter particularly described as contemplated in this act, and for that purpose he shall have power to correct any error or mistake in numbering or referring to the sections or parts of any act or law as may be incorporated into this Code, and whenever the word "chapter" occurs, the same may be changed and the word "act" inserted in lieu thereof, or *vice versa*. He may make divisions or subdivisions of the law, and subjects to which they pertain, and use or employ such terms or expressions with which to designate such divisions as in his judgment will best facilitate reference thereto; but he shall in no case change, modify or alter the law. He shall also prepare suitable head notes or catchwords to indicate briefly the subject-matter of the several acts or sections, with a full and accurate index to the whole, which notes, references and catchwords shall be prepared from the certified copies of the laws passed, and when so prepared the same shall be delivered to the secretary of the Territory.

§ 5. **Enacting Clause, etc., Shall be Omitted.**—SEC. 3323. In preparing said acts for publication, the enacting clause and the section declaring when the act takes effect shall be omitted, and the sections shall be numbered so that the sections shall be successive and uniform, and without omission from the first to the close of the volume \* \* \*

§ 6. **What Laws Shall Constitute Code.**—SEC. 3325. The following acts and laws shall constitute the Code of Washington Territory: \* \* \*  
(4) And all acts revised and amended or enacted during the eighth biennial and present extra session of the Legislative Assembly, of a general nature.

## TITLE VI.—CONVEYANCES.

### CHAPTER I.—DEEDS, ETC., WHAT CONSTITUTES.

#### No. 341.—AN ACT RELATING TO DEEDS.<sup>1</sup>

§ 1. **Conveyances of Real Estate, etc., Shall be by Deed.**—SECTION 1. *Be it enacted, etc.,* That all conveyances of real estate, or of any interest therein, and all contracts creating or evidencing any encumbrance upon real estate, shall be by deed.

§ 2. **What Constitutes Deed.**—SEC. 2. A deed shall be in writing, signed and sealed by the party bound thereby, witnessed by two witnesses, and acknowledged by the party making it before a judge of the supreme court, a judge of the probate court, a justice of the peace, or a notary public.<sup>2</sup>

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, p. 402.)

<sup>2</sup> See Nos. 342, 343, *infra*.

**No. 342.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 23, 1860. (See Seventh Reg. Sess. 1859-60, p. 298, secs. 1, 2.) This No. is *verbatim* as No. 341, *supra*, except § 2 of said No. at 2 after the words "notary public" read "or county auditor."

**No. 343.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 430, secs. 1, 2.) This No. is *verbatim* as No. 341, *supra*, except § 2 of said No. at 2 after the words "notary public" read "or county auditor."

**No. 344.—AN ACT TO MAKE PERFECT TITLES TO LANDS IN WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. Subsequently Acquired Title to Inure to Previous Purchaser.**  
**SECTION 1.** *Be it enacted, etc.,* That whenever any person or persons having sold and conveyed by deed any lands in this Territory, and who, at the time of such conveyance, had no title to such land, and any person or persons who may hereafter sell and convey by deed any lands in this Territory, and who shall not at the time of such sale and conveyance have the title to such land, shall acquire a title to such land so sold and conveyed, such title shall inure to the benefit of the purchasers or conveyee or conveyees of such lands to whom such deed was executed and delivered, and to his and their heirs and assigns forever. And the title to such land so sold and conveyed shall pass to and vest in the conveyee or conveyees of such lands, and to his or their heirs and assigns, and shall thereafter run with such land.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 195.) In effect from date.

**No. 345.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

**§ 1. Conveyances of Real Estate, etc., Shall be by Deed.—SECTION 1.** *Be it enacted, etc.,* That all conveyances of real estate, or of any interest therein, and all contracts creating or evidencing any incumbrance upon real estate, shall be by deed.

**§ 2. What Constitutes Deed.**—A deed shall be in writing, signed and sealed by the party bound thereby, witnessed by two witnesses, and acknowledged by the party making it before some person authorized by the laws of this Territory to take the acknowledgment of deeds.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 465.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 346.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 312, secs. 1, 2.) This No. is *verbatim* as No. 345, *supra*. All conflicting acts and parts of acts repealed. In effect from date.

**No. 347.—CHAPTER CLXXI—DEEDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 7, 1881. (See Code 1881, p. 396, chap. 171, secs. 2311 to 2314, inclusive.) This No. is *verbatim* as No. 345, *supra*, after enacting clause. For repealing clause, date in effect, etc., see Nos. 338, 339, 340.



**No. 348.—AN ACT CONCERNING CONVEYANCES OF REAL ESTATE, AND PROVIDING A FORM FOR DEEDS, MORTGAGES AND CERTIFICATES OF ACKNOWLEDGMENTS, AND DECLARING THE EFFECT THEREOF.<sup>1</sup>**

**§ 1. Conveyances of Real Estate, etc., Shall be by Deed.**—SECTION 1. *Be it enacted, etc.,* That all conveyances of real estate or of any interest therein, and all contracts creating or evidencing any incumbrance upon real estate, shall be by deed.

**§ 2. What Constitutes Deed.**—SEC. 2. A deed shall be in writing, signed and sealed by the party bound thereby, witnessed by two witnesses, and acknowledged by the party making it before some person authorized by the laws of this Territory to take the acknowledgment of deeds.

**§ 3. Warranty Deed: Form of.**—SEC. 3. That warranty deeds for the conveyance of land may be substantially in the following form: The grantor [here insert the name or names and place of residence], for and in consideration of [here insert consideration], in hand paid, convey and warrant to [here insert the grantee's name or names] the following described real estate [here insert description], situated in the county of —, Washington Territory. Dated this — day of —, 18—. (Seal) Every deed in substance in the above form, when otherwise duly executed, shall be deemed and held a conveyance in fee simple to the grantee, his heirs and assigns, with covenants on the part of the grantee: (1) That at the time of the making and delivery of such deed he was lawfully seized of an indefeasible estate in fee simple in and to the premises therein described, and had good right and full power to convey the same; (2) that the same were then free from all encumbrances; and (3) that he warrants to the grantee, his heirs and assigns, the quiet and peaceable possession of such premises, and will defend the title thereto against all persons who may lawfully claim the same; and such covenants shall be obligatory upon any grantor, his heirs and personal representatives, as fully and with like effect as if written at full length in such deed.

**§ 4. Bargain and Sale Deed: Form of.**—SEC. 4. Bargain and sale deeds for the conveyance of land may be substantially in the following form: The grantor [here insert name or names and place of residence], for [and] in consideration of [here insert consideration], in hand paid, bargain, sell and convey to [here insert the grantee's name or names] the following described real estate [here insert description], situated in the county of —, Territory of Washington. Dated this — day of —, 18—. (Seal). Every deed in substance in the above form shall convey to the grantee, his heirs or other legal representatives, an estate of inheritance in fee simple, and shall be adjudged an express covenant to the grantee, his heirs or other legal representatives, to wit: That any grantor was seized of an indefeasible estate in fee simple, free from incumbrance, done or suffered from the grantor, except the rents and services that may be reserved, as also for quiet enjoyment against the grantor, his heirs and assigns, unless limited by express words contained in such deed; and the grantee, his heirs, executors, administrators and assigns, may in any action recover for breeches, as if such covenants were expressly inserted.

**§ 5. Quit-claim Deed: Form of.**—SEC. 5. Quit claim deeds may be in substance in the following form. The grantor [here insert name or names and place of residences], for the consideration of [here insert consideration], convey and quit-claim to [here insert grantee's name or names], all interest in the following described real estate [here insert description], situated in the county of —, Washington Territory. Dated this — day of —, 18—. (Seal) Every deed in substance in form

<sup>1</sup> Approved Jan. 21, 1886. (See Tenth Bien. Sess. 1885-86, p. 177.) In effect from date.

prescribed in this section, when otherwise duly executed, shall be deemed and held a good and sufficient conveyance, release and quit-claim to the grantee, his heirs and assigns, in fee of all the then existing legal or equitable rights of the grantor, in the premises therein described, but shall not extend to the after acquired title unless words are added expressing such intention.

**§ 6. Mortgages: Form of—Rights of Married Woman.**—SEC. 6. Mortgages of land may be in the following form, substantially: The mortgagor [here insert name or names], mortgages to [here insert name or names of mortgagee or mortgagees], to secure the payment of [here recite the nature and amount of indebtedness, showing when due, rate of interest, and whether secured by note or not], the following described real estate [here insert description], situated in the county of —, Washington Territory. Dated this — day of —, 18—. (Seal). Every such mortgage, when otherwise properly executed, shall be deemed and held a good and sufficient conveyance and mortgage to secure the payment of the moneys therein specified. The parties may insert in such mortgage any lawful agreement or condition, not usurious or unconscionable: *Provided, however,* That no mortgage shall be valid against the wife of any mortgagor who may be occupying the homestead with him, unless she shall freely and voluntarily, separate and apart from her husband, sign and acknowledge said mortgage; and the officer taking the acknowledgment shall fully apprise her of her rights and the effect of signing such mortgage.

\* \* \* \* \*

**No. 349.—AN ACT CONCERNING CONVEYANCES OF REAL ESTATE.<sup>1</sup>**

**§ 1. Conveyances of Real Estate, etc., Shall be by Deed.**—*Be it enacted, etc.* SECTION 1. That all conveyances of real estate, or of any interest therein, and all contracts creating or evidencing any incumbrance upon real estate, shall be by deed.

**§ 2. What Constitutes Deed.**—SEC. 2. A deed shall be in writing, signed by the party bound thereby, and acknowledged by the party making it, before some person authorized by the laws of this Territory to take the acknowledgment of deeds.

\* \* \* \* \*

**§ 3. "Heirs" Not Necessary.**—SEC. 4. The term "heirs," or other technical words of inheritance, shall not be necessary to create and convey an estate in fee simple.

**§ 4. Conflicting Acts Repealed.**—SEC. 5. All acts or parts of acts in conflict herewith are hereby repealed.

**§ 5. When to Take Effect.**—SEC. 6. This act shall take effect and be in force from and after the first day of March, 1888.

<sup>1</sup> Approved Jan. 31, 1888. (See Eleventh Bien. Sess. 1887-88, p. 50.)

**No. 350.—AN ACT TO AMEND SECTIONS SIX AND SEVEN<sup>1</sup> OF AN ACT ENTITLED "AN ACT CONCERNING CONVEYANCES OF REAL ESTATE, AND PROVIDING A FORM FOR DEEDS, MORTGAGES AND CERTIFICATES OF ACKNOWLEDGMENTS, AND DECLARING THE EFFECT THEREOF," APPROVED JANUARY 21, 1886.<sup>2</sup>**

**§ 1. Mortgages: Form of.**—*Be it enacted, etc.* SECTION 1. That section six of an act entitled "An act concerning conveyances of real estate, and providing a form for deeds, mortgages and certificates of acknowl-

<sup>1</sup> For section seven see No. 372, *infra*.

<sup>2</sup> Approved Feb. 1, 1888. (See Eleventh Bien. Sess. 1887-88, p. 51.)

edgments and declaring the effect thereof," approved January 21st, 1886, be and the same is hereby amended to read as follows: Sec. 6. Mortgages of land may be in the following form, substantially: The mortgagor [here insert name or names], mortgages to [here insert name or names of mortgagee or mortgagees], to secure the payment of [here recite the nature and amount of indebtedness, showing when due, rate of interest and whether secured by note or not], the following described real estate [here insert description], situated in the county of —, Washington Territory, dated this — day of —, 18—. Every such mortgage, when otherwise properly executed, shall be deemed and held a good and sufficient conveyances and mortgage to secure the payment of the money therein specified. The parties may insert in such mortgage any lawful agreement or condition.

\* \* \* \* \*

§ 2. **When to Take Effect.**—SEC. 8. This act shall take effect and be in force from and after the first day of March, 1888.

## CHAPTER II.—ACKNOWLEDGMENTS.

### No. 351.—AN ACT RELATING TO DEEDS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Married Woman: What Shall Acknowledge.**—SEC. 3. A married woman shall not be bound by any deed affecting her own real estate or releasing dower, unless she shall be joined in the conveyance by her husband, and shall, upon an examination by the officer taking the acknowledgment, separate and apart from her husband, acknowledge that she did voluntarily, of her own free will and without the fear of or coercion from her husband, execute the deed; and the officer shall make known to her the contents of the deed, and shall certify that he has made known to her its contents and examined her separate and apart from her husband, as is above provided.

\* \* \* \* \*

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess. 1854, p. 402.)

### No. 352.—AN ACT TO AUTHORIZE CERTAIN OFFICERS TO TAKE ACKNOWLEDGMENTS.<sup>1</sup>

§ 1. **Clerk of Court.**—SECTION 1. *Be it enacted, etc.*, That the clerks of the district and supreme courts of this Territory be and they are hereby authorized to take acknowledgments of deeds and under<sup>2</sup> instruments of writing under their seals of office.

\* \* \* \* \*

<sup>1</sup> Passed Feb. 2, 1858. (See Fifth Reg. Sess. 1857-58, p. 29.) In effect from date.

<sup>2</sup> Should be "other."

### No. 353.—AN ACT AUTHORIZING COUNTY AUDITORS TO TAKE ACKNOWLEDGMENTS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That county auditors are hereby authorized to take acknowledgments of deeds and other instruments of writing.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 25, 1859. (See Sixth Reg. Sess. 1858-59, p. 21.)

**No. 354.—AN ACT IN REGARD TO CLERK OF THE SUPREME AND DISTRICT COURTS, AND PRESCRIBING CERTAIN DUTIES FOR SUCH CLERKS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 1. **Clerks of Court May Take.**—SEC. 11. The clerks of the district or supreme courts of this Territory are authorized to take acknowledgments of deeds and instruments of writing under the seals of their office.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 17, 1863. (See Tenth Reg. Sess. 1862-63, p. 416.)

**No. 355.—AN ACT IN RELATION TO COUNTY AUDITOR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Auditors and Deputies May Take.**—SEC. 8. Auditors and their deputies are authorized \* \* \* to take acknowledgments of deeds and other instruments of writing.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Bien. Sess. 1862-63, p. 548.) All inconsistent acts and parts of acts repealed. In effect from date.

**No. 356.—AN ACT TO PROVIDE FOR THE ACKNOWLEDGMENT OF DEEDS OUT OF THIS TERRITORY.<sup>1</sup>**

§ 1. **Who May Take Proof of Signature and Seal.**—SECTION 1. *Be it enacted, etc.,* That a deed to lands situated in this Territory may be acknowledged out of this Territory before any clerk of a county having a seal, or any notary public of any other state or territory, and the signature and seal of such officers shall prove their own genuineness.

<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 25.)

**No. 357.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ACKNOWLEDGMENT OF DEEDS OUT OF THE TERRITORY," APPROVED JANUARY 21, 1865.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That an act entitled "An act to provide for the acknowledgment of deeds out of this Territory," be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 20, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 89.) In effect from date.

**No. 358.—AN ACT TO PROVIDE FOR THE EXECUTION AND ACKNOWLEDGMENT OF DEEDS OUT OF THIS TERRITORY.<sup>1</sup>**

§ 1. **Who May Take.**—SECTION 1. *Be it enacted, etc.,* That deeds or conveyances of lands, or of any estate or interest therein, situated in this Territory, may be executed or acknowledged in any other state or territory of the United States, in the form prescribed for executing and acknowledging deeds within this Territory, and the execution thereof may be acknowledged before any judge of a court of record, notary public,

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 93.)

justice of the peace, or before any commissioner appointed by the governor of this Territory for such purpose.

§ 2. **Proof of Official Character of Officer: When Necessary.**—SEC. 2. In the cases provided for in the preceding section, unless the acknowledgment be taken before a commissioner appointed by the governor of this Territory for that purpose, such deed shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record of the county or district within which such acknowledgment was taken, under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was at the date thereof such officer as he is therein represented to be, and that he believes the signature of the person subscribed thereto to be genuine.

§ 3. **Certain Deeds Declared Legal: Exception.**—SEC. 3. All deeds heretofore acknowledged according to the provisions of this act are hereby declared legal, except in cases where third parties have subsequently acquired a valid interest in the land.

**No. 359.—AN ACT TO AUTHORIZE REGISTERS OF LAND OFFICES TO TAKE ACKNOWLEDGMENTS OF DEEDS WITHIN THE TERRITORY.<sup>1</sup>**

§ 1. **Authorization.**—SECTION 1. *Be it enacted, etc.,* That the registers of land offices within the Territory be and they are hereby authorized and empowered to take acknowledgments of deeds to lands within the Territory.

§ 2. **Must Provide Suitable Seal, etc.**—SEC. 2. Before taking the acknowledgment to any deed by virtue of the preceding section, the register shall provide a suitable seal, and deposit an impression thereof, over his proper signature, in the office of the secretary of the Territory.

\* \* \* \* \*

<sup>1</sup>Approved Jan. 23, 1868. (See First Bien. Sess. 1867-68, p. 44.) In effect from date.

**No. 360.—AN ACT IN RELATION TO COUNTY AUDITOR.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 29, 1869. (See Second Bien. Sess. 1869, p. 310, sec. 11.) This No. is *verbatim* as No. 353, *supra*.

**No. 361.—AN ACT CURING DEFECTIVE ACKNOWLEDGMENTS.<sup>1</sup>**

§ 1. **What Instruments Cured.**—SECTION 1. *Be it enacted, etc.,* That all those deeds or other instruments in writing which are required to be acknowledged by the laws of this Territory, heretofore made or which shall hereafter be made, containing omissions in the certificate of acknowledgment of the officer before whom the deed or other instrument in writing aforesaid was executed, and all other defects of like character in such certificate, shall not be deemed to invalidate such deed or instrument in any particular, but shall be deemed to convey all the right, title and interest of the party or parties executing the same in good faith to their grantee as perfectly and effectually to all intents and purposes as if such defect or omission had not occurred in such certificate of acknowledgment: *Provided,* That this curative provision shall in nowise interfere with the vested rights of innocent third parties, and that nothing herein contained shall be so construed as to interfere in any manner whatever with any proceeding in equity in cases of mistake or fraud.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 10, 1873. (See Fourth Bien. Sess. 1873, p. 481.) In effect from date.

**No. 362.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.* \* \* \*

§ 2. **Married Woman: What Shall Acknowledge.**—SEC. 8. A married woman shall not be bound by any deed affecting her own real estate or releasing dower unless she shall be joined in the conveyance by her husband, and shall, upon an examination by the officer taking the acknowledgment separate and apart from her husband, acknowledge that she did voluntarily, of her own free will, and without the fear of or coercion from her husband, execute the deed; and the officer shall make known to her the contents of the deed, and shall certify that he has made known to her its contents and examined her separate and apart from her husband, as is above provided.

§ 3. **Who May Take, Within Territory.**—SEC. 5. Acknowledgments of deeds and mortgages may be taken within the Territory before a judge of the supreme court, a judge of the probate court, a justice of the peace, a county auditor, a clerk of the district or supreme court, the register of a United States land office, or a notary public duly qualified according to law.

§ 4. **Who May Take, Without Territory.**—SEC. 6. Deeds or conveyances of lands, or of any estate or interest therein, situated in this Territory, may be executed or acknowledged in any other state or territory of the United States in the form prescribed for executing and acknowledging deeds within this Territory, and the execution thereof may be acknowledged before any person authorized to take acknowledgments of deeds by the laws of the state or territory, wherein the acknowledgment is taken, or before any commissioner appointed by the governor of this Territory for such purpose.

§ 5. **Proof of Official Character of Officer: When Necessary.**—SEC. 7. In the cases provided for in the preceding section, unless the acknowledgment be taken before a commissioner appointed by the governor of this Territory for that purpose, such deed shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record of the county or district within which such acknowledgment was taken, under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was at the date thereof such officer as he is therein represented to be; that he is authorized by law to take acknowledgments of deeds, and that he believes the signature of the person subscribed thereto to be genuine.

§ 6. **Deeds Already Executed Declared Legal—Rights of Third Parties.**—SEC. 8. All deeds heretofore acknowledged according to the provisions of this act, are hereby declared legal, except in cases where third parties have subsequently acquired a valid interest in the land.

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 461.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 363.—AN ACT IN RELATION TO ACKNOWLEDGMENT OF DEEDS, MORTGAGES AND OTHER INSTRUMENTS OF WRITING.<sup>1</sup>**

§ 1. **Who May Take, Within Territory.**—SECTION 1. *Be it enacted, etc.*, That acknowledgment of deeds, mortgages or any legal instruments may be taken within the Territory before a judge of the supreme court, a

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 107.) All conflicting acts and parts of acts repealed. In effect from date.



judge of the probate court, a justice of the peace, a county auditor, a clerk or a regularly appointed deputy clerk of the district or supreme court, or a notary public duly qualified.

§ 2. **In Foreign Countries.**—SEC. 2. Deeds, mortgages and other instruments that are required to be acknowledged by laws of this Territory in order to become legal instruments, may be made in a foreign country out of the United States upon a certificate written or annexed under the official seal of any minister plenipotentiary, *charge d'affairs*, consul general, consul, vice consul or commercial agent appointed by the government of the United States to any foreign country, or of the proper officer of any court of such country, or of the mayor or other chief magistrate of any city, town or corporation therein, that the said writing was acknowledged by such person, or proved as to him by two witnesses before any person having such appointment or before such court, mayor or chief magistrate.

\* \* \* \* \*

**No. 364.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Married Woman: When Bound by Deed.**—SEC. 3. A married woman shall not be bound by any deed affecting her own real estate or releasing dower unless she shall be joined in the conveyance by her husband, and shall acknowledge that she did voluntarily of her own free will execute the deed.

\* \* \* \* \*

§ 3. **Who May Take, Within Territory.**—SEC. 5. Acknowledgments of deeds and mortgages may be taken within the Territory before a judge of the supreme court, a judge of the probate court, a justice of the peace, a county auditor, a clerk of the district or supreme court or a notary public duly qualified according to law

\* \* \* \* \*

§ 4. **Who May Take, Without Territory.**—SEC. 6. Deeds or conveyances of lands or of any estate or interest therein situated in this Territory, may be executed or acknowledged in any other state or Territory of the United States in the form prescribed for executing and acknowledging deeds within this Territory, and the execution thereof may be acknowledged before any person authorized to take acknowledgments of deeds by the laws of the state or territory wherein the acknowledgment is taken, or before any commissioner appointed by the governor of this Territory for such purpose.

§ 5. **Proof of Official Character of Officer: When Necessary.**—SEC. 7. In the cases provided for in the preceding section, unless the acknowledgment be taken before a commissioner appointed by the governor of this Territory for that purpose, or by the clerk of the court of record of said state or Territory, or by a notary public or other officer having a seal of office, then such deed shall have attached thereto a certificate of the clerk of the court of record, under the seal of said court of said county or district, or a certificate of any other proper certifying officer of said district or county within which said acknowledgment was taken, that the person whose name is subscribed to the certificate of acknowledgment was at the date thereof such officer as he therein represents himself to be, that he is authorized by law to take acknowledgment of deeds and that he verily believes the signature of the person subscribed thereto to be genuine.

§ 6. **Deeds Already Executed Declared Legal.**—SEC. 8. All deeds, conveyances or incumbrances of real estate heretofore acknowledged according to the provisions of this act are hereby declared legal.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 312.) All conflicting acts or parts of acts repealed. In effect from date.



**No. 365.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATING TO DEEDS," APPROVED NOVEMBER 9, 1877.<sup>1</sup>

§ 1. **Who May Take Acknowledgments.**—SECTION 1. *Be it enacted, etc.,* That section <sup>2</sup> five of the act relating to deeds, approved November 9, 1877, be amended to read as follows: Acknowledgments of deeds, mortgages and other instruments in writing may be taken in this Territory, before a judge of the supreme court, or the clerk thereof, or the deputy of such clerk, before a judge of the district court in this Territory, or the clerk thereof, or the deputy of such clerk, or before a judge of the probate court, or the clerk thereof, or before a justice of the peace, or a county auditor, or the deputy of such auditor, or a qualified notary public.

§ 2. **Deeds Already Executed Declared Legal.**—SEC. 2. All deeds, mortgages or other instruments in writing, which, prior to the passage of this act, may have been acknowledged before either of the foregoing named officers, or deputies, or before the clerk of any court, or his deputies, heretofore established by the laws of this Territory, are hereby declared legal and binding: *Provided,* That such acknowledgment conform to the laws relating to acknowledgments in force at the time the same were taken.

\* \* \* \* \*  
<sup>1</sup> Approved Nov. 3, 1879. (See Seventh Bien. Sess. 1879, p. 110.) In effect from date.  
<sup>2</sup> See No. 364, § 3, *supra*.

**No. 366.**—AN ACT IN RELATION TO ACKNOWLEDGMENTS OF DEEDS, MORTGAGES AND OTHER INSTRUMENTS OF WRITING TAKEN IN FOREIGN COUNTRIES, BEYOND THE LIMITS OF THE UNITED STATES.<sup>1</sup>

§ 1. **Who May Take.**—SECTION 1. *Be it enacted, etc.,* That acknowledgments of all deeds, mortgages, and other instruments in writing, that are required to be acknowledged by any law of this Territory, may be made and taken in any foreign country beyond the limits of the United States, before any minister plenipotentiary, *charge d'affairs*, consul general, vice consul or commercial agent, appointed by the government of the United States, or before the proper officer of any court of said country, or before the mayor or other chief magistrate of any city, town or other municipal corporation therein.

§ 2. **Proof of Official Character of Officer: When Necessary.**—SEC. 2. The person or officer taking such acknowledgment shall certify the same by a certificate written on or annexed to said mortgage, deed or instrument, which certificate shall be under his official seal, if any he has, and such certificate shall recite in substance that the deed, mortgage or instrument was acknowledged by the person or persons whose name or names are signed thereto as grantor or principal before him as such officer, with the date of such acknowledgment.

§ 3. **Effect of Certificate.**—SEC. 3. Such certificate shall be *prima facie* evidence of the facts therein recited, and on such certificate, such deed, instrument or mortgage shall be admitted to record in the auditor's office of the proper county, with like effect as if the same was acknowledged in this Territory before an officer authorized to take acknowledgments of deeds; \* \* \*

§ 4. **Deeds Already Executed Declared Legal.**—SEC. 4. That all deeds, mortgages and other instruments at any time heretofore acknowledged according to the provisions of this act are hereby declared legal and valid.

\* \* \* \* \*  
<sup>1</sup> Approved Nov. 3, 1879. (See Seventh Bien. Sess. 1879, p. 157.) In effect from date.

**No. 367.—CHAPTER CLVII—IN REGARD TO THE CLERK OF THE SUPREME AND DISTRICT COURTS, AND PRESCRIBING CERTAIN DUTIES FOR SUCH CLERKS.<sup>1</sup>**

\* \* \* \* \*

**§ 1. Clerks of Court May Take.**—SEC. 2184. The clerks of the district or supreme courts of this Territory are authorized to take acknowledgments of deeds and instruments of writing under the seals of their office.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 6, 1881. (See Code 1881, p. 375.)

**No. 368.—CHAPTER CLXXI—DEEDS.<sup>1</sup>**

\* \* \* \* \*

**§ 1. Married Woman: When Bound by Deed.**—SEC. 2313. A married woman shall not be bound by any deed affecting her own real estate or releasing dower, unless she shall be joined in the conveyance by her husband and shall acknowledge that she did voluntarily of her own free will execute the deed

\* \* \* \* \*

**§ 2. Who May Take, Within Territory.**—SEC. 2315. Acknowledgments of deeds, mortgages and other instruments in writing may be taken in this Territory, before a judge of the supreme court, or the clerk thereof, or the deputy of such clerk, before a judge of the district court in this Territory, or the clerk thereof, or the deputy of such clerk, or before a judge of the probate court, or before a justice of the peace, or a county auditor, or the deputy of such auditor, or a qualified notary public

**§ 3. Who May Take, Without Territory.**—SEC. 2316. Deeds or conveyances of lands, or of any estate or interest therein situated in this Territory, may be executed or acknowledged in any other state or territory of the United States in the form prescribed for executing and acknowledging deeds within this Territory, and the execution thereof may be acknowledged before any person authorized to take acknowledgments of deeds by the laws of the state or territory wherein the acknowledgment is taken, or before any commissioner appointed by the governor of this Territory for such purpose.

**§ 4. Proof of Official Character of Officer: When Necessary.**—SEC. 2317. In the case provided for in the preceding section, unless the acknowledgment be taken before a commissioner appointed by the governor of this Territory for that purpose, or by the clerk of the court of record of said state or territory, or by a notary public or other officer having a seal of office, then such deed shall have attached thereto a certificate of the clerk of the court of record, under the seal of said court of said county or district, or a certificate of any other proper certifying officer of said district or county within which said acknowledgment was taken, that the person whose name is subscribed to the certificate of acknowledgment was at the date thereof such officer as he therein represents himself to be, that he is authorized by law to take acknowledgments of deeds and that he verily believes the signature of the person subscribed thereto to be genuine.

**§ 5. Deeds Already Executed Declared Legal.**—SEC. 2318. All deeds, mortgages or other instruments in writing, which prior to the passage of this chapter may have been acknowledged before either of the foregoing named officers or deputies, or before the clerk of any court or his depu-

<sup>1</sup> Approved Dec. 7, 1881. (See Code 1881, p. 398.) For repealing clause, date in effect, etc., see Nos. 339, 340.

ties heretofore established by the laws of this Territory, are hereby declared legal and valid, in so far as such acknowledgment is concerned.

§ 6. **Who May Take, in Foreign Countries.**—SEC. 2319. Acknowledgments of all deeds, mortgages and other instruments in writing that are required to be acknowledged by any law of this Territory, may be made and taken in any foreign country beyond the limits of the United States, before any minister plenipotentiary, *charge d'affairs*, consul general, vice consul or commercial agent appointed by the government of the United States, or before the proper officer of any court of said country, or before the mayor or other chief magistrate of any city, town or other municipal corporation therein.

§ 6. **How Acknowledgment Shall be Certified.**—SEC. 2320. The person or officer taking such acknowledgment shall certify the same by a certificate written on or annexed to said mortgage, deed or instrument, which certificate shall be under his official seal, if any he has, and such certificate shall recite in substance that the deed, mortgage or instrument was acknowledged by the person or persons whose name or names are signed thereto as grantor or principal before him as such officer, with the date of such acknowledgment.

§ 7. **Effect of Certificate.**—SEC. 2321. Such certificate shall be *prima facie* evidence of the facts therein recited, and on such certificate such deed, instrument or mortgage shall be admitted to record in the auditor's office of the proper county, with like effect as if the same was acknowledged in this Territory, before an officer authorized to take acknowledgments of deeds; \* \* \*

§ 8. **Deeds Already Executed Declared Legal.**—SEC. 2322. That all deeds, mortgages and other instruments at any time heretofore acknowledged according to the provisions of this chapter are hereby declared legal and valid.

\* \* \* \* \*

**No. 369.—CHAPTER CCXI.—COUNTY AUDITORS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 470, sec. 2767?) This No. is *verbatim* as No. 355, *supra*. For date when in effect, repealing clause, etc., see Nos. 338, 339, 340.

**No. 370.—AN ACT CONCERNING CONVEYANCES OF REAL ESTATE AND PROVIDING A FORM FOR DEEDS, MORTGAGES AND CERTIFICATES OF ACKNOWLEDGMENTS, AND DECLARING THE EFFECT THEREOF.<sup>1</sup>**

§ 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Form of Acknowledgment.**—SEC. 7. A certificate of acknowledgment, substantially in the following form, shall be sufficient:

TERRITORY OF WASHINGTON, COUNTY OF —, ss.

I (here give name of officer and official title), do hereby certify that on this — day of —, 18—, personally appeared before me (name of grantor, and if acknowledged by wife, her name, and add "his wife"), to me known to be the individual (or individuals) described in and who executed the within instrument, and acknowledged that he (she or they) signed and sealed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this — day of —, A. D. 18—. (Signature of officer.) [SEAL.]

It shall not be necessary to take the acknowledgment of the wife separate and apart from the husband, except as to mortgages of the homestead, as herein provided.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 21, 1886. (See Tenth Bien. Sess. 1885-86, p. 177.) In effect from date.

<sup>2</sup> "Seal," omitted.

**No. 371.—AN ACT TO AMEND SECTION TWENTY-THREE HUNDRED AND NINETEEN (2319) OF THE CODE OF WASHINGTON TERRITORY, IN RELATION TO ACKNOWLEDGMENTS.<sup>1</sup>**

**§ 1. Who May Take Acknowledgments in Foreign Countries.—***Be it enacted, etc.* SECTION 1. That section 2319<sup>2</sup> of the Code of Washington Territory, in relation to acknowledgments, be amended so as to read as follows: "Section 2319. Acknowledgments of all deeds, mortgages and other instruments in writing that are required to be acknowledged by any laws of this Territory may be made and taken in any foreign country beyond the limits of the United States, before any minister plenipotentiary, secretary of legation, *charge d'affairs*, consul general, consul, vice consul or commercial agent appointed by the government of the United States, or before the proper officer of any court of said country, or before the mayor or other chief magistrate of any city, town or other municipal corporation therein."

\* \* \* \* \*

<sup>1</sup> Approved Jan. 27, 1888. (See Eleventh Bien. Sess. 1887-88, p. 1.) In effect from date.

<sup>2</sup> See No. 368, § 6, *supra*.

**No. 372.—AN ACT TO AMEND SECTIONS SIX<sup>1</sup> AND SEVEN OF AN ACT ENTITLED "AN ACT CONCERNING CONVEYANCES OF REAL ESTATE AND PROVIDING A FORM FOR DEEDS, MORTGAGES AND CERTIFICATES OF ACKNOWLEDGMENTS, AND DECLARING THE EFFECT THEREOF." APPROVED JANUARY 21, 1886.<sup>2</sup>**

**§ 1.** *Be it enacted, etc.*

\* \* \* \* \*

**§ 2. Form of Acknowledgment.—**SEC. 2. That section seven<sup>3</sup> of said act be and the same is hereby amended to read as follows: Section 7. A certificate of acknowledgment, substantially in the following form, shall be sufficient.

TERRITORY OF WASHINGTON, COUNTY OF ———, ss.

I, (here give name of officer and official title) do hereby certify that on this — day of —, 18—, personally appeared before me (name of grantor, and if acknowledged by wife, her name, and add "his wife,") to me known to be the individual or individuals described in and who executed the within instrument, and acknowledged that he (she or they) signed and sealed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this — day of —, A. D. 18—. [Signature of officer.]

**§ 3. When to Take Effect.—**SEC. 3. This act shall take effect and be in force from and after the first day of March, 1888.

<sup>1</sup> For section six, see No. 350, *supra*.

<sup>2</sup> Approved Feb. 1, 1888. (See Eleventh Bien. Sess. 1887-88, p. 51.)

<sup>3</sup> See No. 370, *supra*.

1. NOTARIES PUBLIC.

**No. 373.—AN ACT TO PROVIDE FOR THE APPOINTMENT OF NOTARIES PUBLIC.<sup>1</sup>**

**§ 1. Appointment.—**SECTION 1. *Be it enacted, etc.,* There shall be as many notaries public biennially appointed by the governor for the several counties as he shall deem expedient; and they shall be severally commissioned and engaged thereon according to law.

<sup>1</sup> No date given. (See First Reg. Sess. 1851, p. 444.)

§ 2. **Jurisdiction and Powers.**—SEC. 2. Notaries public are hereby authorized within their respective counties \* \* \* to take \* \* \* acknowledgments of deeds and other instruments, and to administer oaths.

§ 3. **Seal.**—SEC. 5. Every notary public, before he enters upon the duties of his office, shall provide an official seal, and deposit an impression of the same, together with said oath and bond, in the office of the secretary of the Territory.

**No. 374.—AN ACT RELATING TO NOTARIES PUBLIC.<sup>1</sup>**

§ 1. **Jurisdiction.**—SECTION 1. *Be it enacted, etc.,* That notaries public may exercise all the powers that are conferred upon them by law, or may hereafter be conferred upon them, in any county of the judicial district to which they belong.

<sup>1</sup> Passed Jan. 26, 1857. (See Fourth Reg. Sess. 1856-57, p. 30.)

**No. 375.—AN ACT IN RELATION TO NOTARIES PUBLIC.<sup>1</sup>**

§ 1. **Appointment.**—SECTION 1. *Be it enacted, etc.,* That the governor shall hereafter appoint as many notaries public for said Territory as he shall deem expedient, who shall hold their office for the period of three years, and until their successors shall be duly appointed and qualified, and they shall be severally commissioned and engaged thereon according to law.

§ 2. **Jurisdiction and Powers.**—SEC. 2. Notaries public are hereby authorized within the Territory of Washington \* \* \* to take \* \* \* acknowledgments of deeds and other instruments, and to administer oaths.

§ 3. **Seal.**—SEC. 3. Every notary public, before he enters upon the duties of his office, shall provide an official seal, which shall be approved by the governor, and shall deposit an impression of the same, together with his official oath, in the office of the secretary of the Territory.

§ 4. **When Words "Notary Public" Sufficient.**—SEC. 5. It shall be sufficient for any person acting as notary public, to certify an oath to be used in this Territory in any of the courts, or in any manner whatever, to say simply in addition to his name, "notary public," and all the courts of this Territory shall consider an oath or affidavit properly certified by an acting notary, without the impression of his seal or other or further addition.

<sup>1</sup> Passed Jan. 27, 1862. (See Ninth Reg. Sess. 1861-62, p. 52.) In effect from date.

**No. 376.—AN ACT IN RELATION TO NOTARIES PUBLIC.<sup>2</sup>**

<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 531, secs. 1, 2, 5.) This No. is *corbation* as No. 375, *supra*. In effect from date.

**No. 377.—AN ACT IN RELATION TO NOTARIES PUBLIC.<sup>1</sup>**

§ 1. **Appointment.**—SECTION 1. *Be it enacted, etc.,* That the governor shall hereafter appoint as many notaries public for said Territory as he shall deem expedient, who shall hold their office for the period of three

<sup>1</sup> Approved Nov. 19, 1869. (See Second Bien. Sess. 1869, p. 375.) In effect from date.

years, and they shall be severally commissioned and qualified according to law

§ 2. **Jurisdiction and Powers.**—SEC. 2. Notaries public are hereby authorized within the Territory of Washington \* \* \* to take \* \* \* acknowledgments of deeds and other instruments, and to administer oaths, \* \* \*

§ 3. **Seal.**—SEC. 3 Every notary public, before he enters upon the duties of his office, shall provide an official seal which shall be approved by the governor, and shall deposit an impression of the same, together with his official oath, in the office of the secretary of the Territory.

\* \* \* \* \*

§ 4. **When Words "Notary Public" Sufficient—All Past Official Acts Ratified.**—SEC. 5. It shall be sufficient for any person acting as notary public to certify an oath to be used in this Territory in any of the courts, or in any manner whatever, to say simply in addition to his name "notary public," and all the courts of this Territory shall consider an oath or affidavit properly certified by an acting notary without the impression of his seal or other or further addition. And all official acts heretofore performed in this Territory by notaries public, duly commissioned and qualified under color of their office, are hereby declared authentic and valid though such acts may have been performed subsequently to the time or term named in the commission appointing said notaries.

**No. 378.—AN ACT CREATING THE OFFICE OF NOTARY PUBLIC AND PRESCRIBING THE DUTIES, POWERS AND EMOLUMENTS THEREOF**

§ 1. **Appointment—Revocation of.**—SECTION 1 *Be it enacted, etc.* That the governor shall hereafter appoint and commission as many notaries public as he shall deem expedient; and he may at any time revoke any appointment

§ 2. **Term of Office.**—SEC. 2. Every notary public shall hold his office for three years from the date of his commission unless his appointment is sooner revoked

§ 3. **Seal: Design of, etc.—Oath of Office.**—SEC. 3 Before any commission is delivered to the person appointed, he shall procure a seal, on which shall be engraved the words "notarial seal" and Washington Territory, with his surname at length and at least the initials of his christian name: *Provided*, That any seal of any notary public which has been duly approved by the governor prior to the passage of this act, shall be lawful during the continuance in office of such notary public. He shall also take and subscribe the oath of office required of all territorial officers and file the same, together with a distinct impression of his official seal in the office of the secretary of the Territory.

\* \* \* \* \*

§ 4. **Jurisdiction and Powers.**—SEC. 4. Every notary public is authorized within the Territory of Washington: \* \* \* (2) To take acknowledgments of all deeds and other instruments of writing, and certify the same in the manner required by law. \* \* \* (4) To exercise all other powers and perform all other duties heretofore conferred upon him by law.

\* Approved Nov. 14, 1873. (See Fourth Blen. Sess. 1873, p. 467) All conflicting acts and parts of acts repealed. In effect from date.



**No. 379.—AN ACT RELATING TO NOTARIES PUBLIC.<sup>1</sup>**

§ 1. **Jurisdiction.**—SECTION 1. *Be it enacted, etc.,* That notaries public are hereby declared to be county officers, and they shall be hereafter appointed by the governor of the Territory for the several counties in this Territory.

§ 2. **Effect.**—SEC. 2. Nothing in this act contained shall be so construed as to prevent any duly qualified notary public from exercising any or all of the powers and duties of his office in any county in this Territory.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 118.) All conflicting acts repealed. In effect from date.

**No. 380.—AN ACT PRESCRIBING THE QUALIFICATIONS OF NOTARIES PUBLIC.<sup>1</sup>**

§ 1. **Seal: Design of, etc.—Oath of Office.**—SECTION 1. *Be it enacted, etc.,* That before a commission shall issue to any notary public who shall have been appointed or may be appointed by the governor of the Territory, said appointee shall—(1) Procure a seal on which shall be engraved the words "notary public," "notarial seal" or words of equivalent import, and "Washington Territory," with his surname in full, and at least the initials of his christian name. (2) Take the oath of office prescribed in the act creating the office of notary public. (3) Append to said oath of office a clear impression of his official seal, which seal shall be approved by the governor. (4) File said oath of office and impression and approval of seal in the office of the secretary of the Territory.

§ 2. **Clerk of Court to Certify Official Character.**—SEC. 2. After delivery of commission to a notary public so appointed and qualified, the secretary shall make a certificate of such appointment, with the date of said commission, and file the same in the office of the clerk of the district court of the district or sub-district where such notary resides, who shall file and preserve the same, and it shall be deemed sufficient evidence to enable such clerk to certify that the person so commissioned is a notary public, during the time such commission is in force.

§ 3. **All Past Official Acts Ratified.**—SEC. 3. All official acts heretofore done and performed by notaries public in this Territory, and attested by their official seal, shall be taken as valid and of full force and effect, if such seals have been approved by the governor of the Territory at the time of commissioning said notaries public, whether such official seals have engraved thereon the words "notarial seal," or "notary public," or other equivalent words distinguishing such office. Anything in section three of the act entitled "An act creating the office of notary public, and prescribing the duties and powers and emoluments thereof," approved November 14, 1873,<sup>2</sup> to the contrary thereof notwithstanding.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 11, 1875. (See Fifth Bien. Sess. 1875, p. 120.) In effect from date.

<sup>2</sup>See No. 378, § 3, *supra*.

**No. 381.—AN ACT IN RELATION TO NOTARIES PUBLIC.<sup>1</sup>**

§ 1. **Appointment—Revocation of.**—SECTION 1. *Be it enacted, etc.,* That the governor shall hereafter appoint and commission as many

<sup>1</sup>Approved Oct. 31, 1877. (See Sixth Bien. Sess. 1877, p. 253.) All conflicting acts and parts of acts repealed. In effect from date.

notaries public as he shall deem expedient, and he may at any time revoke any appointment.

§ 2. **Jurisdiction—Term of Office.**—SEC. 2. Every notary public shall be appointed for the county in which he resides, and shall hold his office for four years unless his appointment is sooner revoked.

§ 3. **Seal: Design of, etc.—Oath of Office.**—SEC. 3. Before a commission shall issue to the person appointed, he shall—(1) Pay into the Territorial treasury the sum of five dollars, taking the Territorial treasurer's receipt therefor. (2) Procure a seal on which shall be engraved the words "notary public," "notarial seal," or words of equivalent import, and "Washington Territory," with his surname in full, and at least the initials of his christian name. (3) Take and subscribe the oath of office required of all Territorial or county officers. (4) Append to the said oath a clear impression of his official seal, which seal shall be approved by the governor. (5) File the said oath of office, impression and approval of seal and Territorial treasurer's receipt, in the office of the secretary of the Territory.

§ 4. **Issuance of Commission.**—SEC. 4. When the secretary of the Territory is satisfied that the requirements of the foregoing section has [have] been fully complied with, he shall so inform the governor, who shall issue or cause to be issued a commission to the person appointed, who shall thereupon be authorized to enter upon the duties of his office.

§ 5. **Jurisdiction and Powers.**—SEC. 5. Every duly qualified notary public is authorized in any county in this Territory: \* \* \* (2) To take acknowledgments of all deeds and other instruments of writing, and certify the same in the manner required by law. \* \* \*

§ 6. **When the Words "Notary Public" Sufficient.**—SEC. 6. It shall be sufficient for any notary public to certify an oath to be used in the Territory, in any of the courts, or in any matter whatsoever, to say simply, in addition to his name, "notary public," and all the courts of this Territory shall consider an oath or affidavit otherwise properly certified by an acting notary public, without the impression of his seal, or other or further addition.

\* \* \* \* \*

§ 7. **Clerk of Court to Certify Official Character.**—SEC. 10. After the delivery of a commission to a notary public, appointed and qualified as heretofore provided, the secretary of the Territory shall make a certificate of such appointment, with the date of said commission, and file the same in the office of the clerk of the district court of the district or sub-district, where such notary resides, who shall file and preserve the same, and it shall be deemed sufficient evidence to enable such clerk to certify that the person so commissioned is a notary public, during the time such commission is in force.

§ 8. **All Past Official Acts Ratified.**—SEC. 11. All official acts heretofore done and performed by notary publics [notaries public] in this Territory, and attested by their official seals, shall be taken as valid and of full force and effect, if such seals were approved by the governor of the Territory at the time of commissioning said notaries public.

\* \* \* \* \*

#### No. 382.—CHAPTER CCIV.—NOTARIES PUBLIC.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Approved Dec. 6, 1881. (See Code 1881, p. 455, secs. 2614 to 2617, inclusive, 2619, 2621.) This No. is verbatim as No. 381, *supra*.

**No. 383.—AN ACT TO AMEND SECTION TWO THOUSAND SIX HUNDRED AND FIFTEEN, CHAPTER TWO HUNDRED AND FOUR OF THE CODE OF WASHINGTON.<sup>1</sup>**

**§ 1. Jurisdiction—Term of Office—Past Official Acts Ratified.**—SECTION 1. *Be it enacted, etc.*, That section two thousand six hundred and fifteen<sup>2</sup> of chapter two hundred and four of the Code of Washington, relating to notaries public, be and the same is hereby amended so as to read: "Sec. 2615. Every notary public shall be appointed for the Territory in which he resides, and shall hold his office for four years unless his appointment is sooner revoked; and all official acts heretofore done or performed by notaries public in any county in this Territory, other than that in which they at that time resided or for which their commissions issued, shall be valid and of full force and effect."

\* \* \* \* \*

<sup>1</sup>Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 87.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup>See Nos. 382 and 381, § 2.

**No. 384.—AN ACT. VALIDATING THE ACTS OF NOTARIES PUBLIC APPOINTED UNDER AND BY VIRTUE OF AN ACT ENTITLED "AN ACT TO AMEND SECTION 2615, CHAPTER CCIV, OF THE CODE OF WASHINGTON," APPROVED NOVEMBER 28, 1883, AND APPOINTMENTS MADE THEREUNDER.<sup>1</sup>**

**§ 1. Appointments Ratified.**—*Be it enacted, etc.* SECTION 1. That all appointments of notaries public in Washington Territory made by the governor under and by virtue of an act entitled "An act to amend section 2615,<sup>2</sup> chapter CCIV of the Code of Washington," approved November 28, 1883, be and the same are hereby declared to be valid and legal.

**§ 2. Official Acts not Affected by Invalidity of Statutes, etc.**—SEC. 2. No official act heretofore done or performed or hereafter to be done or performed by any notary public of this Territory appointed under the provisions of the act aforesaid, shall be invalidated or considered null or void by reason of any irregularity or informality in their appointments, or by reason of the invalidity of said statute.

\* \* \* \* \*

<sup>1</sup>Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 163.) In effect from date.

<sup>2</sup>See No. 383, *supra*.

**2. COMMISSIONERS OF DEEDS.**

**No. 385.—AN ACT TO PROVIDE FOR THE APPOINTMENT OF COMMISSIONERS OF DEEDS.<sup>1</sup>**

**§ 1. Appointment—Term of Office—Powers.**—SECTION 1. *Be it enacted, etc.*, That the governor may appoint in each of the United States and the Territories thereof one or more commissioners, under the seal of this Territory, to continue in office during the pleasure of the governor, for the time being, who shall have power \* \* \* to take the acknowledgment of any deed or other instrument to be used or recorded in this Territory.

**§ 2. Oath of Office.**—SEC. 2. Before any commissioner, appointed as aforesaid, shall proceed to perform any of the duties of his office, he shall

<sup>1</sup>No date given. (See First Reg. Sess. 1854, p. 448.)

take and subscribe an oath before any justice of the peace, or other officer authorized to administer oaths in the State or Territory for which such commissioner is appointed, that he will faithfully discharge all the duties of his office; a certificate of which shall be filed in the office of the secretary of the Territory.

**No. 386.—AN ACT TO PROVIDE FOR THE APPOINTMENT OF COMMISSIONERS OF DEEDS.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup>Passed Jan. 19, 1863. (See Tenth Bien. Sess. 1862-63, p. 500.) This No. is *verbatim* as No. 385, *supra*.

**No. 387.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE APPOINTMENT OF COMMISSIONERS OF DEEDS." PASSED JANUARY 19, 1863.<sup>1</sup>**

§ 1. **Term of Office.**—SECTION 1. *Be it enacted, etc.*, That section 1<sup>2</sup> of an act entitled "An act to provide for the appointment of commissioners of deeds," passed Jan. 19, 1863, be so amended as to strike out the words "during the pleasure of the governor," and insert instead "for the term of four years, provided it shall so long be the pleasure of the governor."

§ 2. **When Commissions Already Issued Shall Expire.**—SEC. 2. All commissions heretofore issued to persons in other states and territories as commissioners of deeds, if issued four years previous to the passage of this act, are declared to have expired on the first day of January, 1872, and all other commissions issued heretofore shall expire four years from the date of the issue of said commissions. And it is hereby made the duty of the secretary of the Territory to give notice to all parties who have qualified under such appointment of the passage and provisions of this act.

\* \* \* \* \*  
<sup>1</sup>Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 91.) In effect from date.  
<sup>2</sup>See Nos. 386 and 385, § 1, *supra*.

**No. 388.—AN ACT TO PROVIDE FOR THE APPOINTMENT OF COMMISSIONERS OF DEEDS, AND TO LEGALIZE THEIR ACTS.<sup>1</sup>**

§ 1. **Appointment—Term of Office—Powers.**—SECTION 1. *Be it enacted, etc.*, That the governor may appoint in each of the United States and the Territories thereof one or more commissioners, under the seal of this Territory, to continue in office for the term of four years, who shall have power \* \* \* to take the acknowledgment of any deed or other instrument to be used or recorded in the Territory.

§ 2. **Oath of Office.**—SEC. 2. Before any commissioner, appointed as aforesaid, shall proceed to perform any of the duties of his office, he shall take and subscribe an oath, before any justice of the peace or other officer authorized to administer oaths in the State or Territory for which such commissioner is appointed, that he will faithfully discharge all the duties of his office; a certificate of which shall be filed in the office of the secretary of the Territory.

§ 3. **When Commissions Already Issued Shall Expire.**—SEC. 3. All commissions heretofore issued to persons in other states and territories as commissioners of deeds, if issued four years previous to November 29, 1871, are declared to have expired on the first day of January, 1872, and

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 477.) All conflicting acts and parts of acts repealed. In effect from date.

all other commissions issued previous to said November 29, 1871, shall expire four years from the date of the issue of said commissions. And it is hereby made the duty of the secretary of the Territory to give notice to all parties who have qualified under such appointments, of the passage and provisions of this act.

§ 4. **Certain Deeds, etc., Declared Legal.**—SEC. 4. All acknowledgments of deeds or other instruments for the conveyance of lands situated in Washington Territory, which may have been taken between January 1, 1872, and January 1, 1873, inclusive, before any commissioner of deeds residing in another state or Territory, and duly appointed and qualified under the laws of this Territory, be and the same are hereby legalized and declared valid, notwithstanding the commission of the commissioner of deeds taking such acknowledgment may have expired under the provisions of the act entitled "An act to amend an act entitled an act to provide for the appointment of commissioners of deeds," approved November 29, 1871.<sup>2</sup>

\* \* \* \* \*

<sup>2</sup> See No. 387, *supra*.

**No. 389.—AN ACT IN RELATION TO COMMISSIONERS OF DEEDS.<sup>1</sup>**

§ 1. **Appointment—Term of Office—Powers.**—SECTION 1. *Be it enacted, etc.,* That the governor may appoint in each of the United States and the Territories thereof one or more commissioners, who shall continue in office for a term of four years, who shall have power to \* \* \* take \* \* \* acknowledgments and affidavits to be used in this Territory.

§ 2. **Oath of Office, etc.**—SEC. 2. Before a commission shall issue to any commissioner appointed as aforesaid, the appointee shall—(1) Take and subscribe an oath before some officer authorized to administer the same in the state or territory for which such commissioner is appointed, that he will faithfully discharge the duties of his office, and forward a copy thereof to the secretary of the Territory. (2) Pay into the Territorial treasury the sum of two dollars and fifty cents, taking the Territorial treasurer's receipt therefor. (3) File the said Territorial treasurer's receipt in the office of the secretary of the Territory.

§ 3. **Commission to Issue—Revocation.**—SEC. 3. When the provisions of section two shall have been complied with the secretary shall so inform the governor, who shall issue a commission to the said appointee, upon receipt of which the said commissioner may enter upon the duties of his office. The governor may at any time revoke any appointment.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 6, 1877. (See Sixth Bien. Sess. 1877, p. 257.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 390.—CHAPTER CCV.—COMMISSIONERS OF DEEDS.<sup>1</sup>**

§ 1. **Appointment—Term of Office—Powers.**—SEC. 2626. The governor may appoint in each of the United States and the territories thereof

<sup>1</sup> Approved Nov. 29, 1881. (See Code 1881, p. 456.) The original law on file in the office of the secretary of state is entitled "An act to provide for the appointment of commissioners of deeds and to legalize their acts." Secs. 1 and 2 of this original act appear *verbatim* as this No., but the remainder of this particular act does not appear anywhere in print, although an act of another date is *verbatim* as two of the sections referred to. (Compare §§ 3, 4 of No. 388, *supra*.) The part of the act omitted is as follows:

"SEC. 3. All commissions heretofore issued to persons in other states and territories as commissioners of deeds, if issued four years previous to November 29, 1871, are declared to have expired on the first day of January, 1872, and all other commissions issued previous to said November 29, 1871, shall expire four years from the date of the issue of said commissions. And it is hereby made the duty of the secretary of the Territory to give

one or more commissioners under the seal of this Territory, to continue in office for the term of four years, who shall have power \* \* \* to take the acknowledgment of any deed or other instrument to be used or recorded in the Territory.

§ 2. **Oath of Office.**—SEC. 2627. Before any commissioner, appointed as aforesaid, shall proceed to perform any of the duties of his office he shall take and subscribe an oath before any justice of the peace or other officer authorized to administer oaths in the state or territory for which such commissioner is appointed, that he will faithfully discharge all the duties of his office; a certificate of which shall be filed in the office of the secretary of the Territory.

### CHAPTER III.—SEALS, OFFICIAL AND PRIVATE.

#### No. 391.—AN ACT RELATING TO OFFICIAL SEALS.<sup>1</sup>

§ 1. **Of District and Probate Courts.**—SECTION 1. *Be it enacted, etc.* That it shall be the duty of the board of county commissioners of the several counties of the Territory to provide and furnish seals for such of the several district and probate courts as are now unprovided with the same, and with such descriptions and devices as the said courts shall respectively require.

§ 2. **Temporary Seal.**—SEC. 2. When any court of record shall be unprovided with a seal, the judge of said court may authorize the use of any temporary seal, or of any device by way of seal, until the same shall be provided as aforesaid.

§ 3. **Any Device Valid.**—SEC. 3. Any instrument to which the person making the same shall affix any device by way of seal shall be adjudged and held to be of the same force and obligation as if it were actually sealed.

<sup>1</sup>No date given. (See First Reg. Sess. 1854, p. 379.)

#### No. 392.—AN ACT IN RELATION TO OFFICIAL SEALS.<sup>1</sup>

\* \* \* \* \*  
<sup>1</sup>Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 495.) This No. is *verbatim* as No. 391, *supra*.

notice to all parties who have qualified under such appointments, of the passage and provisions of this act.

"SEC. 4. All acknowledgments of deeds or other instruments for the conveyance of lands situated in Washington Territory, which may have been taken between January 1, 1872, and January 1, 1873, inclusive, before any commissioner of deeds residing in another state or territory and duly appointed and qualified under the laws of this Territory, be and the same are hereby legalized and declared valid, notwithstanding the commission of the commissioner of deeds taking such acknowledgment may have expired under the provisions of the act entitled "An act to amend an act entitled an act to provide for the appointment of commissioners of deeds," approved November 29, 1871.

"SEC. 5. All acts and parts of acts in any manner conflicting with any of the provisions of this act be and the same are hereby repealed.

"SEC. 6. This act to be in force from and after its passage."



**No. 393.—AN ACT IN RELATION TO PRIVATE SEALS.<sup>1</sup>**

§ 1. **Any Device Valid.**—SECTION 1. *Be it enacted, etc.*, That any instrument to which the person making the same shall affix any device by way of seal shall be adjudged and held to be of the same force and obligation as if it were actually sealed.

§ 2. **Scroll, etc., Valid—Rights of Third Parties.**—SEC. 2. All deeds, conveyances and other sealed instruments heretofore executed in this Territory with a scroll or device other than a common law seal, and intended by the use of such scroll or device to seal such deed, conveyance or other instrument, shall have the same force and effect and be as valid as though a common law seal had been made or used: *Provided, however,* That the curative provision shall in nowise interfere with the vested rights of innocent third parties.

§ 3. **Repealing Clause.**—SEC. 3. Section three of the act entitled "An act in relation to official seals," approved January 19, 1863,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*  
<sup>1</sup>Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 83.) In effect from date of passage.

<sup>2</sup>See Nos. 392 and 391, § 3, *supra*.

**No. 394.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Scroll Equivalent.**—SEC. 9. A scroll at the end of the signature of a party to a deed, shall, within the meaning of this act, be considered as equivalent to a seal.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 465.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 395.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 312, sec. 9.) This No. is *verbatim* as No. 394, *supra*. All conflicting acts and parts of acts repealed. In effect from date.

**No. 396.—CHAPTER CCXI—COUNTY AUDITOR.<sup>1</sup>**

\* \* \* \* \*

§ 1. **Seal of Commissioners' Court: Effect of.**—SEC. 2724. \* \* \*  
The seal of the county commissioners' court for each county, used by the county auditor as clerk to attest the proceedings of the board of county commissioners, shall be and remain in the custody of the county auditor as clerk of the said board, and said auditor is hereby authorized to use such seal in attestation of all his official acts, whether as clerk of said court, as auditor or recorder of deeds; and all certificates, exemplifications of records or other acts by him performed as county auditor, certified under the seal of said county commissioners' court, heretofore made or hereafter to be made pursuant to this section in this Territory, shall be as valid and legally binding as though attested by a seal of office of the said county auditor.

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, p. 470.) For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

**No. 397. — AN ACT DECLARING WHAT SHALL CONSTITUTE A SUFFICIENT SEAL TO ANY INSTRUMENT IN WRITING.<sup>1</sup>**

§ 1. **Scrawl, etc., Valid.**—*Be it enacted, etc.* SECTION 1. That any instrument of writing to which the maker shall affix a scrawl by way of seal, or shall adopt a printed scrawl or seal, shall be of the same effect and obligation to all intents and purposes as if the same were sealed

\* \* \* \* \*

<sup>1</sup>Approved Dec. 23, 1885. (See Tenth Bien. Sess. 1885-86, p. 165.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 398.—AN ACT CONCERNING CONVEYANCES OF REAL ESTATE.<sup>1</sup>**

§ 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Private Seals Abolished.**—SEC. 3. The use of private seals to the signature of the grantor or grantors is hereby abolished, and no private seals shall be necessary to the validity of any deed of real estate in this Territory.

\* \* \* \* \*

<sup>1</sup>Approved Jan. 31, 1886. (See Eleventh Bien. Sess. 1887-88, p. 50.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 399.—AN ACT TO ABOLISH THE USE OF PRIVATE SEALS AND TO LEGALIZE INSTRUMENTS HERETOFORE EXECUTED WITHOUT SUCH SEALS.<sup>1</sup>**

§ 1. **Private Seals Abolished.**—*Be it enacted, etc.* SECTION 1. The use of private seals upon all deeds, mortgages, leases, bonds and other instruments, and contracts in writing, is hereby abolished, and the addition of a private seal to any such instrument or contract in writing hereafter made shall not affect its validity or legality in any respect.

§ 2. **All Deeds, etc., Heretofore Executed Without, Valid.**—SEC. 2. All deeds, mortgages or other instruments in writing for the conveyance or incumbrance of real estate, or any interest therein, which have heretofore been executed without the use of a private seal, are, notwithstanding, hereby declared to be legal and valid in all courts of law or equity in this Territory

\* \* \* \* \*

<sup>1</sup>Approved Feb. 2, 1886. (See Eleventh Bien. Sess. 1887-88, p. 184.) All conflicting acts and parts of acts repealed. In effect from date.

**CHAPTER IV.—RECORD OF CONVEYANCES.**

**No. 400.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Where Recorded—Valid Without Record for Six Months.**—SEC. 4. All deeds shall be lodged for record in the office of the recorder of deeds of the county where the land is situated within six months from the time when they are executed and delivered, and unless so lodged for record within six months they shall not be valid as against *bona fide* purchasers without notice, and when so lodged it shall be notice to all the world.

<sup>1</sup>Passed April 28, 1854. (See First Reg. Sess. 1854, p. 402.)

**No. 401.—AN ACT IN RELATION TO COUNTY AUDITOR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Recorder of Deeds.**—SEC. 2. The auditor shall also be clerk of the board of county commissioners and recorder of deeds in the county for which he is elected.

\* \* \* \* \*

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 424.)

**No. 402.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATIVE TO DEEDS."<sup>1</sup>**

§ 1. **Repealing Clause.**—SECTION 1. *Be it enacted, etc.*, That the fourth section <sup>2</sup> of the act relating to deeds, passed April 28, 1854, be and the same is hereby repealed.

§ 2. **Where Recorded—Valid as Notice From Date of Filing.**—SEC. 2. All deeds and mortgages shall be recorded in the office of the county auditor of the county where the land is situated, and shall be valid as against *bona fide* purchasers from the date of their filing or recording in said office; and when so filed or recorded shall be notice to all the world.

<sup>1</sup> Passed Jan. 27, 1858. (See Fifth Reg. Sess. 1857-8, p. 28.)

<sup>2</sup> See No. 400, § 2, *supra*.

**No. 403.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Where Recorded—Valid as Notice From Date of Filing.**—SEC. 4. All deeds and mortgages shall be recorded in the office of the county auditor of the county where the land is situated, and shall be valid as against *bona fide* purchasers from the date of their filing or recording in said office; and when so filed or recorded shall be notice to all the world.

<sup>1</sup> Passed Jan. 23, 1860. (See Seventh Reg. Sess. 1859-60, p. 298.)

**No. 404.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 430.) This No. is *verbatim* as No. 403, *supra*.

**No. 405.—AN ACT IN RELATION TO COUNTY AUDITOR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Duties of, as Recorder.**—SEC. 14. That the auditor of each county in this Territory shall record in a fair and legible handwriting, in books to be by him provided for that purpose at the expense of the county, all deeds, mortgages, and other instruments of writing required by law to be recorded, and which shall be presented to him for that purpose, and the same shall be recorded in regular succession, according to the priority of their presentation; and if a mortgage, the precise time of the day on which the same was presented shall also be recorded.

§ 3. **What Shall Indorse on Instrument.**—SEC. 15. That upon the presentation of any deed or other instrument of writing for record, the

<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 548.) All inconsistent acts and parts of acts are repealed. In effect from date.

auditor shall indorse thereon the date of its presentation, and, if required, shall give to the person presenting the same a receipt therefor, without fee or reward, naming in such receipt the parties to such deed or other instrument of writing, the date thereof, and giving a brief description of the premises. And when such deed or other instrument of writing shall be recorded, the recorder shall endorse thereon the time when recorded, and the number or letter and page or pages of the book in which the same is recorded.

\* \* \* \* \*

#### No. 406.—AN ACT IN RELATION TO COUNTY AUDITOR.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Duties of, as Recorder.**—SEC. 18. The auditor of each county in this Territory shall record in a fair and legible handwriting, in books to be by him provided for that purpose at the expense of the county all deeds, mortgages and other instruments of writing required by law to be recorded, and which shall be presented to him for that purpose, and the same shall be recorded in regular succession, according to the priority of their presentation; and if a mortgage, the precise time of the day on which the same was presented shall also be recorded.

§ 3. **What Shall Endorse on Instrument.**—SEC. 19. Upon the presentation of any deed or other instrument of writing for record, the auditor shall endorse thereon the date of its presentation, and, if required, shall give to the person presenting the same a receipt therefor, without fee or reward, naming in such receipt the parties to such deed or other instrument of writing, the date thereof, and giving a brief description of the premises, and when such deed or other instrument of writing shall be recorded, the recorder shall endorse thereon the time when recorded, and the number or letter and page or pages of the book in which the same is recorded.

\* \* \* \* \*

§ 4. **General Index: What Shall Contain.**—SEC. 24. Each county auditor shall keep a general index direct and inverted. The index direct shall be divided into seven columns, with heads to the respective columns as follows

Time of Reception	Grantor	Grantee.	Nature of Instrument.	Volume and Page where Recorded.	Remarks.	Description of Property.
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He shall correctly enter in such index every instrument concerning or affecting real estate, the names of the grantors being in alphabetical order. The inverted index shall also be divided into seven columns, precisely similar, only that the names of the grantees shall be alphabetically arranged and occupy the second column.

§ 5. **Mortgage, etc.: How Satisfied.**—SEC. 25. Whenever any mortgage, bond, lien or instrument incumbering real estate has been satisfied, released or discharged from record, whether by written release across the record or upon the margin thereof, or by the recording of an instrument of release or acknowledgment of satisfaction, the auditor shall immediately note in both the indices in the column headed remarks, opposite to the appropriate entry, that such instrument, lien or incumbrance has been satisfied. And in all cases of the satisfaction or release of any recorded liens by mortgage, transcript of judgment, mechanics' lien, reg-

<sup>1</sup> Approved Nov. 29, 1869. (See Second Bien. Sess. 1869, p. 310.)

istered taxes or other incumbrance whatsoever, the auditor shall enter with red ink across the record of the instrument creating or evidencing such lien or incumbrance, the word "satisfied," with the day of the date of such satisfaction or release.

§ 6. **Record of Plats, etc.**—SEC. 26. He shall also keep a well bound book in which shall be platted all maps of towns, villages or additions to the same within the county, together with the description, legend, acknowledgment or other writing thereon. He shall keep an index to such book of plats which shall contain the name or names of the proprietor of such town or village, or addition, and the name of the town, village or addition.

\* \* \* \* \*

**No. 407.—AN ACT RELATING TO DEEDS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Where Recorded—Valid, as Notice, From Date of Filing.**—SEC. 4. All deeds and mortgages shall be recorded in the office of the county auditor of the county where the land is situated, and shall be valid as against *bona fide* purchasers from the date of their filing or recording in said office; and when so filed or recorded shall be notice to all the world.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bi-n. Sess. 1873, p. 465.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 408.—CHAPTER CLXXI—DEEDS.<sup>1</sup>**

\* \* \* \* \*

§ 1. **Where Recorded—Valid as Notice From Date of Filing.**—SEC. 2314. All deeds and mortgages shall be recorded in the office of the county auditor of the county where the land is situated, and shall be valid as against *bona fide* purchasers from the date of their filing or recording in said office; and when so filed or recorded shall be notice to all the world.

\* \* \* \* \*

§ 2. **Record Imparts Notice to Third Parties.**—SEC. 2323. Every instrument in writing purporting to convey or encumber real property, which has been recorded in the proper auditor's office, although such instrument may not have been executed and acknowledged in accordance with the law in force at the time of its execution, shall impart the same notice to third persons from the date of recording as if the instrument had been executed, acknowledged and recorded in accordance with the laws regulating the execution, acknowledgment and recording of such instrument then in force.

\* \* \* \* \*

<sup>1</sup>Approved Dec. 7, 1881. (See Code 1881, p. 398.) For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

**No. 409.—CHAPTER CCXI—COUNTY AUDITOR.<sup>1</sup>**

\* \* \* \* \*

§ 1. **Duty, as Recorder.**—SEC. 2726. For the purpose of recording deeds and other instruments of writing by law to be recorded, the county auditor must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the board of county commissioners. He has the custody of and must keep all books, records, maps and papers deposited in his office.

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, p. 470.) For repealing clause, date in effect, etc., see Nos. 338, 339, 340.



**§ 2. How Deeds, etc., Recorded.**—SEC. 2727. He must, upon the payment of his fees for the same, record separately, in large and well-bound separate books, in a plain hand—(1) Deeds, grants, transfers and mortgages of real estate, releasing mortgages, powers of attorney to convey real estate, and leases which have been acknowledged or proved; \* \* \* (3) marriage contracts; \* \* \* (5) notices of mechanic's and other liens; (6) transcripts of judgments which by law are made liens upon real estate, notices of attachments upon real estate, and notices of the pendency of an action affecting the title to real estate, the title thereto or possession thereof; (7) instruments describing or relating to the separate property of married women; (8) patents to lands, whether for donation, homestead, preemption claims or cash entries; (9) such other writings as are required or permitted by law to be recorded.

**§ 3. General Index: What to Contain—Record of Plats, etc.: Index to.**—SEC. 2728. Every auditor must keep a general index direct and inverted. The index direct shall be divided into seven columns with heads to the respective columns as follows:

Time of Reception.	Grantor.	Grantee	Nature of Instrument.	Volume and Page where Recorded.	Remarks.	Description of Property.
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He shall correctly enter in such index every instrument concerning or affecting real estate, the names of the grantors being in alphabetical order. The inverted index shall also be divided into seven columns precisely similar, only that the names of the grantees shall be alphabetically arranged and occupy the second column. He shall also keep a well bound book in which shall be platted all maps of towns, villages or additions to the same within the county, together with the description, legend, acknowledgment or other writing thereon. He shall keep an index to such book of plats which shall contain the name or names of the proprietor of such town or village, or addition, and the name of the town, village or addition.

**§ 4. Mortgages, etc.: How Satisfied.**—SEC. 2729. Whenever any mortgage, bond, lien or instrument incumbering real estate has been satisfied, released or discharged, whether by written release across the record or upon the margin thereof, or by the recording of an instrument of release or acknowledgment of satisfaction, the auditor shall immediately note in both the indices, in the column headed remarks, opposite to the appropriate entry, that such instrument, lien or incumbrance has been satisfied. And in all cases of the satisfaction or release of any recorded liens, mortgage, transcript of judgment, mechanics' liens, registered taxes or other incumbrance whatsoever, the auditor shall enter with red ink across the record of the instrument creating or evidencing such lien or incumbrance, the word "satisfied," with the day of the date of such satisfaction or release, and note the same in index of transcripts of judgment.

**§ 5. Judgments or Decrees Affecting Real Property to be Recorded.**—SEC. 2730. The auditor must file and record with the record of deeds, grants and transfers certified copies of final judgments or decrees partitioning or affecting the title or possession of real property, any part of which is situated in the county of which he is recorder. Every such certified copy or partition, from the time of filing the same with the auditor for record, imparts notice to all persons of the contents thereof, and subsequent purchasers, mortgagees and lien-holders purchase and take with like notice and effect as if such copy or decree was a duly recorded deed, grant or transfer.

**§ 6. What Shall Indorse on Instrument.**—SEC. 2731. When any instrument, paper or notice, authorized by law to be recorded, is deposited



in the county auditor's office for record, that officer must indorse upon the same the time when it was received, noting the year, month, day, hour and minute of its reception, and must record the same without delay, together with the acknowledgments, proofs and certificates written upon or annexed to the same, with the plats, surveys, schedule and other papers thereto annexed, in the order and as of the time when the same was received for record, and must note at the foot of the record the exact time of its reception, and the name of the person at whose request it was recorded.

§ 7. **What Shall Indorse—Continued.**—SEC. 2732. He must also indorse upon such instrument, paper or notice the time when and the book and page in which it is recorded, and must thereafter deliver it, upon request, to the party leaving the same for record, or to his order.

§ 8. **Must Furnish Abstract of Title.**—SEC. 2733. The auditor must, upon the application of any person and upon the payment or tender of the fees therefor, make searches for conveyances, mortgages and all other instruments, papers or notices recorded or filed in his office, and furnish a certificate thereof, stating the names of the parties to such instruments, papers and notices, the dates thereof, the year, month, day, hour and minute they were recorded or filed, the extent to which they purport to affect the property to which they relate and the book and pages where they are recorded.

\* \* \* \* \*

**No. 410.—AN ACT TO AMEND SECTION 2731 OF THE CODE OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **What Auditor Shall Indorse on Instrument.**—*Be it enacted, etc.* SECTION 1. That section two thousand seven hundred and thirty-one<sup>2</sup> of the Code of Washington Territory be and the same is hereby amended to read as follows: Section 2731. When any instrument, paper or notice, authorized or required by law to be recorded, is deposited in the county auditor's office for record, that officer must indorse upon the same the time when it was received, noting the year, month, day, hour and minute of its reception, and must record the same without delay, together with the acknowledgments, proofs and certificates written or printed upon or annexed to the same, with the plates, surveys, schedules and other papers thereto annexed, in the order and as of the time when the same was received for record, and must note at the foot of the record the exact time of its reception and the name of the person at whose request it was recorded, and the same shall be considered and deemed to be recorded from the time it was so deposited in such county auditor's office.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 15, 1886. (See Tenth Bien. Sess. 1885-86, p. 162.) In effect from date.

<sup>2</sup> See No. 409. § 6.

**No. 411.—AN ACT TO SECURE THE CANCELLATION OF SATISFIED MORTGAGES.<sup>1</sup>**

§ 1. **Manner of—Duty of Mortgagee.**—*Be it enacted, etc.* SECTION 1. That whenever the amount due on any mortgage is paid and satisfied, the mortgagee or his legal representative shall, at the request of the mortgagor or his authorized agent, acknowledge satisfaction of the same in the margin of the page upon which the mortgage is recorded or by executing an instrument referring to the mortgage, specifically describing the property mortgaged, giving the amount for which it was given to se-

<sup>1</sup> Approved Jan. 29, 1886. (See Tenth Bien. Sess. 1885-86, p. 116.) All conflicting acts and parts of acts repealed. In effect from date.

cure, the date of execution and date of record of said mortgage, and shall acknowledge satisfaction in full of the same, which shall be duly acknowledged and recorded upon the records of the county wherein the mortgage is recorded.

§ 2. **If Mortgagee Fail to, Court May Order.**—SEC 2 If the mortgagee shall fail so to do after sixty days from the date of such request or demand, he shall forfeit and pay to the mortgagor the sum of twenty-five dollars, to be recovered in any court having competent jurisdiction, and said court, when convinced that said mortgage has been fully satisfied, shall issue an order in writing, directing the auditor to cancel said mortgage, and the auditor shall immediately record the order and cancel the mortgage as directed by the court, upon the margin of the page upon which the mortgage is recorded, making reference thereupon to the order of the court and to the page where the order is recorded.

\* \* \* \* \*

## CHAPTER V.—SALE OF REAL ESTATE BY COMMISSIONERS.

### No. 412.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

#### CHAPTER XLI.

§ 2. **In What Case Court May Appoint.**—SEC 390. The several district courts may, whenever it is necessary, appoint a commissioner to convey real estate—(1) When by a judgment in an action a party is ordered to convey real property to another, or any interest therein (2) When real property or any interest therein has been sold under a special order of <sup>2</sup> court and the purchase money paid therefor.

§ 3. **Deed of: What Shall State.**—SEC. 391. The deed of the commissioner shall so refer to the judgment authorizing the conveyance that the same may be readily found, but need not recite the record in the case generally.

§ 4. **Judgment Deed: Effect of.**—SEC. 392. A conveyance made in pursuance of a judgment shall pass to the grantee the title of the parties ordered to convey the land.

§ 5. **Sale Deed: Effect of.**—SEC. 393. A conveyance made in pursuance of a sale ordered by the court shall pass to the grantee the title of all the parties to the action or proceeding.

§ 6. **Deed Shall be Approved and Approval Indorsed by Court.**—SEC 394 A conveyance by a commissioner shall not pass any right until it has been examined and approved by the court, which approval shall be indorsed on the conveyance and recorded with it.

§ 7. **How Deed Signed.** SEC. 395. It shall be sufficient for the conveyance to be signed by the commissioner only, without affixing the

<sup>1</sup> Passed April 28, 1854. (See First Reg. Sess 1854, pp. 129, 304.) For repealing clause see No. 115, § 2.

<sup>2</sup> See Nos. 416, 419, 420, 421, 423, *infra*.

names<sup>2</sup> of the parties whose title is conveyed, but the names of the parties shall be recited in the body of the conveyance.

§ 8. **Record of Deed.**—SEC. 396. The conveyance shall be recorded in the office in which by law it should have been recorded, had it been made by the parties whose title is conveyed by it.

§ 9. **Judgment for Conveyance: How Enforced.**—SEC. 397. In case of a judgment to compel a party to execute a conveyance of real estate, the court may enforce the judgment by attachment or sequestration, or appoint a commissioner to make the conveyance.

\* \* \* \* \*  
<sup>2</sup> See Nos. 420, 421, 423, *infra*.

**No. 413.—AN ACT CREATING THE BOARD OF COUNTY COMMISSIONERS AND DEFINING THEIR DUTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*  
 § 2. **Manner of Sale of Real Estate of County.**—SEC. 12. Real estate belonging to any county may be sold by an agent duly appointed by the order directing such sale, who shall have the same powers<sup>2</sup> as a commissioner appointed to sell real estate by the district or probate court.

\* \* \* \* \*  
<sup>1</sup>No date given. (See First Reg. Sess. 1834, p. 419.)  
<sup>2</sup> See Nos. 417, 418, *infra*.

**No. 414.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Passed Jan. —, 1860. (See Seventh Reg. Sess. 1850–60, p. 83, chap. 39.) This No. is *verbatim* as No. 412, *supra*. For repealing clause see No. 115, § 2.

**No. 415.—AN ACT CREATING THE BOARD OF COUNTY COMMISSIONERS, AND DEFINING THEIR DUTIES.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862–63, p. 539, sec. 12.) This No. is *verbatim* as No. 413, *supra*.

**No. 416.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS IN THE DISTRICT COURTS.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862–63, p. 176, chap. 42.) This No. is *verbatim* as No. 412, *supra*, except § 2 of said No. at 2 instead of "of court" read "o. the court." In effect from date. For repealing clause see No. 118, § 3.

**No. 417.—AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS, AND DEFINING THEIR DUTIES.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866–67, p. 51, sec. 12.) This No. is *verbatim* as No. 413, *supra*, except § 2 of said No. at 2 instead of "powers" read "power."

**No. 418.—AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS, AND DEFINING THEIR DUTIES.<sup>1</sup>**

\* \* \* \* \*  
<sup>1</sup> Approved Dec. 1, 1869. (See Second Blen. Sess. 1869, p. 303, sec. 12.) This No. is *verbatim* as No. 413, *supra*, except § 2 of said No. at 2 instead of "powers" read "power."

**No. 419.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 127, chap. 45.) This No. is *verbatim* as No. 412, *supra*, except § 2 of said No. at \* instead of "of court" read "of the court." For repealing clause see No. 121, § 3.

**No. 420.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 18, 1873. (See Fourth Bien. Sess. 1873, p. 130, chap. 45.) This No. is *verbatim* as No. 412, *supra*, except § 2 of said No. at \* instead of "of court" read "of the court," and § 7 at \* instead of "names" read "name." For repealing clause see No. 121, § 3.

**No. 421.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, p. 111, chap. 44.) This No. is *verbatim* as No. 412, *supra*, except § 2 of said No. at \* instead of "of court" read "of the court," and § 7 at \* instead of "names" read "name." For repealing clause and date in effect see No. 122, §§ 3, 4.

**No. 422.—CHAPTER CCIX—COUNTY COMMISSIONERS.<sup>1</sup>**

\* \* \* \* \*

§ 1. **County Real Estate: Manner of Sale.**—SEC. 2690. County commissioners in counties who own land under the provisions of section 2286 of the Revised Statutes of the United States, or who by relocation of county seat are possessed of land the proceeds of the sale of which would enable said counties to assist in providing county buildings, are hereby authorized to sell at public auction at the court house door, after thirty days previous notice given by publication in a newspaper of the county or posted in five public places of the county, and convey to the highest bidder for cash, any property, real or personal, belonging to the county, paying the proceeds into the county treasury for the purpose of paying for erection of public buildings.

§ 2. **Former Conveyances Ratified.**—SEC. 2691. All sales and conveyances heretofore made by order of any board of county commissioners of real estate within their respective counties are hereby ratified and legalized.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1881. (See Code 1881, p. 463.)

**No. 423.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 123, chap. 45.) This No. is *verbatim* as No. 412, *supra*, except § 2 of said No. at \* instead of "of court" read "of the court," and § 7 at \* instead of "names" read "name." For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

**No. 424.—AN ACT AUTHORIZING THE SALE OF REAL ESTATE ESCHEATED TO COUNTIES.<sup>1</sup>**

§ 1. **Manner of.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of the several counties of this Territory be and they are hereby

<sup>1</sup> Approved Nov. 23, 1883. (See Ninth Bien. Sess. 1883, p. 57.) In effect from date.

authorized and empowered to sell and convey at public sale, for cash or on credit, in such manner as they may deem advantageous, any real estate or other property which may have escheated to the county by operation of law.

§ 2. **No Sale Before Five Years Have Elapsed.**—SEC. 2. But no such sale shall be made before the expiration of five years after the property has vested in the county.

§ 3. **Conveyance—How Made.**—SEC. 3. In case of a sale, a conveyance shall be executed to the purchaser by the chairman of the board of county commissioners and the county auditor, attested by his seal of office. Such conveyance shall refer to the order of the board directing such sale, and shall be deemed to convey all the estate, right, title and interest of the county in and to the property sold.

\* \* \* \* \*

## CHAPTER VI.—TOWN PLATS: RECORDING AND VACATION OF.

### No. 425.—AN ACT IN RELATION TO THE RECORDING OF TOWN PLATS.<sup>1</sup>

§ 1. **Of Town: Who May Make—How Made—Record of.**—SECTION 1. *Be it enacted, etc.,* That any person or persons who may hereafter lay off any town within this Territory shall, previous to the sale of any lots within such town, cause to be recorded in the recorder's office of the county wherein the same may lie, a plat of said town, with the public grounds (if any there be), streets, lanes and alleys, with their respective widths properly marked, and the lots regularly numbered and the size stated on said plat.

§ 2. **Donation or Grant—Effect of.**—SEC. 2. Every donation or grant to the public, or to any individual or individuals, religious society or societies, or to any corporation or body politic, marked or noted as such on the plat of the town, or wherein such donation or grant may have been made, shall be considered, to all intents and purposes, as a quit-claim deed to the said donee or donees, grantee or grantees, for his, her or their use, for the purposes intended by the donor or donors, grantor or grantors, as aforesaid.

§ 3. **Of Addition: Who May Make, etc.**—SEC. 3. Every person hereafter<sup>2</sup> laying off any lots in addition to any town shall, previous to the sale of such lots, have the same recorded under the like regulations as are provided for recording the original plat of said town, and thereafter the same shall be considered an addition thereto.

§ 4. **Acknowledgment.**—SEC. 4. Every person whose duty it may be to comply with the foregoing regulations shall, at or before the time of offering such plat for record, acknowledge the same before the recorder of the proper county, or any other officer who is authorized by law to take the acknowledgment of deeds, a certificate of which acknowledgment shall be, by the officer taking the same, indorsed on or annexed to such plat and recorded therewith.

§ 5. **Streets, Lanes and Alleys Shown, are Public Highways.**—SEC. 5. All streets, lanes and alleys laid off and recorded in accordance with the foregoing provisions shall be considered, to all intents and purposes, public highways, \* \* \*

<sup>1</sup> Passed Jan. 23, 1858. (See Fifth Reg. Sess. 1857-58, p. 25.)

<sup>2</sup> See No. 431, *infra*.



**No. 426.—AN ACT RELATIVE TO THE VACATION OF TOWN PLATS.<sup>1</sup>**

**§ 1. Of Town—Petition for: What Shall State—Jurisdiction of.**—SECTION 1. *Be it enacted, etc.,* That any person or body corporate interested in any town in this Territory not incorporated who may desire to vacate any lot, street, alley, common, or any part thereof, or may desire to vacate any public square or part thereof in any such town, it shall be lawful for any such person or corporation to petition the board of county commissioners for the proper county, setting forth the particular circumstances of the case, and giving a distinct description of the property to be vacated, which petition shall be filed with the county auditor twenty days previous to the sitting of said court, and notice of the pendency of said petition shall be given for the same space of time by written or printed notices set up in three of the most public places in said town, containing a description of the property to be vacated.

**§ 2. Court May Use its Discretion.**—SEC. 2. Said court, if satisfied that the aforesaid notice has been given, may, in their discretion, vacate the same, with such conditions and restrictions as they may deem reasonable and for the public good.

**§ 3. In Whom Part Vacated Shall Vest.** SEC. 3. The part so vacated, if it be a lot or lots, shall vest in the rightful owner, who may have the title thereof according to law; and if the same be a street or alley, the same shall be attached to the lots or ground bordering on such street or alley; and all right or title thereto shall vest in the person or persons owning the property on each side thereof, in equal proportions. *Provided,* The lots or grounds so bordering on such street or alley have been sold by the original owner or owners of the soil; if, however, said original owner or owners possess such title to the lots or ground bordering said street or alley on one side only, the title to the same shall vest in the said owner or owners if the said court shall judge the same to be just and proper.

**§ 4. Of Part of Plat: Manner of.**—SEC. 4. In cases where any person interested in any incorporated town in this Territory may desire to vacate any street, alley, lot or common, or any part thereof, it shall be lawful for such person to petition the trustees in like manner as persons interested in towns not incorporated are authorized to petition the board of county commissioners; and the same proceedings shall be had thereon before such trustees, or other body corporate having jurisdiction, as are authorized to be had before the board of county commissioners; and such trustees or other corporate body may determine on such application under the same restrictions and limitations as are contained in the foregoing provisions.

**§ 5. Of Addition: In What Case May.**—SEC. 5. In all cases where any person or persons have laid out or shall hereafter lay out a town, or any addition to any town, and such town or addition does not improve, and such person or persons shall be the legal owner or owners of all the lots contained in such town or addition, such person or persons, or any other party or parties who shall become the legal owner or owners thereof, may have such town or addition, or any part thereof, vacated in like manner as is hereinbefore provided for the vacation of lots, streets and alleys.

<sup>1</sup> Passed January 23, 1858. (See Fifth Reg. Sess. 1857-58, p. 27.)

**No. 427.—AN ACT IN RELATION TO THE RECORDING OF TOWN PLATS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Bien. Sess. 1862-63, p. 431.) In effect from date. This No. is verbatim as No. 425, *infra*



**No. 428.—AN ACT RELATIVE TO THE VACATION OF TOWN PLATS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Bien. Sess. 1862-63, p. 482.) In effect from date. This No. is *verbatim* as No. 426, *supra*.

**No. 429.—AN ACT RELATIVE TO THE VACATION OF TOWN PLATS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Transmitted to the Governor Nov. 22, 1869, and not returned within five days. (See Second Bien. Sess. 1869, p. 409.) This No. is *verbatim* as No. 426, *supra*.

**No. 430.—AN ACT DECLARING ROADS, STREETS AND ALLEYS IN TOWNS AND CITIES PUBLIC HIGHWAYS.<sup>1</sup>**

SECTION 1. *Be it enacted, etc.*, That whenever any city or town has been surveyed and platted, and a plat thereof showing the roads, streets and alleys has been filed in the office of the auditor of the county in which such city or town is located, such plat shall be deemed the official plat of such city or town, and all roads, streets and alleys in such city or town, as shown by such plat, be and the same are declared public highways: *Providing*, That nothing herein shall apply to any part of a city or town that has been vacated according to law.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 299.) In effect from date.

**No. 431.—CHAPTER CLXXIII—TOWN PLATS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 6, 1881. (See Code 1881, p. 401.) This No. is *verbatim* as No. 425, *supra*, after enacting clause, except instead of the word "act" wherever it appears read "chapter," and § 3 of said No. at 2 instead of "hereafter" read "hereinafter." For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

**No. 432.—CHAPTER CLXXIV—VACATION OF TOWN PLATS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 6, 1881. (See Code 1881, p. 401.) This No. is *verbatim* as No. 426, *supra*, after enacting clause.

**No. 433.—CHAPTER CCXXXVII—STREETS AND ALLEYS IN TOWNS AND CITIES PUBLIC HIGHWAYS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 530.) This No. is *verbatim* as No. 430, *supra*, after enacting clause.

## TITLE VII.—CORPORATIONS.

## CHAPTER I.—MUNICIPAL—FORMATION OF, ETC.

**No. 434.—AN ACT TO PROVIDE FOR THE INCORPORATION OF TOWNS.<sup>1</sup>**

**§ 1. Manner of Incorporation—Corporate Powers.**—SECTION 1. *Be it enacted, etc.* Whenever a majority of the inhabitants of any town or village within this Territory not included within the limits of any incorporated city or town who shall be qualified electors under the laws of this Territory, and shall have resided in such town or village thirty days next preceding, shall present a petition to the court of county commissioners of the county, setting forth the metes and bounds of the town, with a plat of the same, and praying to be incorporated and a police established for their local government, and the court of county commissioners shall be satisfied that the population of such town exceeds one hundred and fifty in number and that a majority of the inhabitants have signed the petition, the said court shall declare such town incorporated, designating in such order the metes and bounds of the town which shall in no case include an area of more than three miles square, which area, together with the petition and town plat, shall be entered on the records of said court; and thenceforth inhabitants within such bounds shall be a body politic and corporated by the name and style of "the inhabitants of the town of (naming it)," and by that name they and their successors shall be known in law, have perpetual succession, sue and be sued in all courts, grant, purchase, hold and receive property, real and personal, within such town and no other (burial grounds and cemeteries excepted), and may lease, sell and dispose of the same for the benefit of the town, and may have a common seal and alter it at pleasure.

**§ 2. Board of Trustees.**—SEC. 2. The corporate powers and duties of every town incorporated under this act shall be vested in a board of trustees \* \* \*

**§ 3. Powers of Trustees.**—SEC. 3. The board of trustees shall have power to make such by-laws and ordinances, not inconsistent with the constitution of the United States and the laws of this Territory, as they may deem necessary to carry out the purposes of this act; \* \* \* to lay out, name, alter, keep open and repair the streets and alleys of the town; \* \* \* to levy and collect a tax annually for municipal purposes, not exceeding one per cent., upon all taxable property as is shown by the assessment made for territorial and county purposes, and to impose penalties upon delinquent tax payers, and to regulate the time of assessing and collecting municipal taxes. \* \* \* The roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvement, repairs and cleaning thereof, and for the purpose of this act, said town shall not be included in any road district, but the road tax due by law within said town shall be collected by the town marshal at such time as may be directed by ordinance, \* \* \*

**§ 4. Assessment: Levy of—By Whom Collected.**—SEC. 4. The board of trustees shall have power to appoint a clerk, who shall be ex

<sup>1</sup>Approved Nov. 29, 1871. (See Third Blen. Sess. 1871, p. 51.) All conflicting acts and parts of acts repealed. In effect from date.

*officio* assessor and shall take his assessment from the county assessment of the same year, and neither the clerk or the board of trustees shall have power to raise any assessment above the county assessment of that year. They shall also appoint a treasurer and marshal, who shall also be the collector of taxes levied by the board of trustees, and said board shall, by ordinance, prescribe their duties and the mode in which they may be performed. \* \* \*

§ 5. **Delinquent Tax Recovered by Suit.**—SEC. 12. If any person fail to pay any tax levied upon his real or personal property, the tax collector may recover the same by suit in the name of the corporation before any court of competent jurisdiction, together with all the costs of suit. \* \* \*

§ 6. **Limit of Indebtedness.**—SEC. 17. The board of trustees of any town incorporated under this act shall have no power to contract liabilities either by borrowing money, loaning the credit of the town or contracting any debt or debts which singly or in the aggregate shall exceed the sum of three thousand dollars. \* \* \*

**No. 435.—AN ACT TO ENABLE TOWNS AND CITIES TO APPROPRIATE LANDS FOR STREETS, ROADS AND ALLEYS.<sup>1</sup>**

§ 1. **Authorities Empowered.**—SECTION 1. *Be it enacted, etc.,* That the corporate authorities of any city or town duly incorporated, be and are hereby authorized and empowered to purchase, enter upon and hold any lands or premises that may be necessary and proper for the construction of streets, roads and alleys.

§ 2. **How Powers Exercised.**—SEC. 2. That the powers and authority herein granted shall be exercised as prescribed in chapter 4<sup>2</sup> of the act to provide for the formation of corporations, approved December 2, 1869. \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 107.) In effect from date.

<sup>2</sup> See No. 457, §§ 7 to 14, inclusive, *infra*.

**No. 436.—AN ACT TO PROVIDE FOR THE INCORPORATION OF CITIES.<sup>1</sup>**

§ 1. **Manner of Petition.**—SECTION 1. *Be it enacted, etc.,* That when the inhabitants of any part of any county not embraced within the limits of any city or incorporated town, which inhabitants exceed two hundred and fifty in number, shall desire to be organized into a city, they may apply by petition in writing signed by not less than forty of the qualified electors of the Territory to be embraced in the proposed city, to the judge of the district court of the proper county, which petition shall describe the territory proposed to be embraced in such city and shall have annexed thereto an accurate map or plat thereof, and state the name proposed for such city, and shall be accompanied with satisfactory proof of the number of inhabitants within the territory embraced in said limits.

§ 2. **Election.**—SEC. 2. When such petition shall be presented, the judge shall forthwith appoint five commissioners who shall at once call an election of all the qualified electors residing within the territory embraced within said limits as described and platted, to be held at some convenient place within said limits, the notice for which shall be given by publication in some newspaper published within said limits, if any there be, for three successive weeks, and by posting notices in five public places within said limits; said posting and the first publication to be not less

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 173.) In effect from date.

than three weeks preceding such election. Such notice shall specify the place and time of such election and a description of the limits of said proposed city, and that a description and plat thereof are on file in the office of the clerk of the district court. \* \* \* The ballot used at said election shall be "for incorporation," "against incorporation."

§ 3. **Duties of Clerk of Court.**—SEC. 3. If a majority of the ballots cast at such election be in favor of such incorporation, the clerk of said district court shall immediately on the return of the commissioners being filed in his office, give notice of the result by publication in a newspaper, or if no newspaper be published in the county, by posting in five public places within the limits of the proposed city. A copy of the notice with the proper proof of its publication shall be filed with the papers, and a certified copy of all papers and entries relating to the matter on file in the said clerk's office shall be filed in the auditor's office of the county and in the office of the secretary of the Territory.

§ 4. **When Incorporation Complete.**—SEC. 4. When certified copies are made and filed, as required by the preceding section, and officers are elected and qualified for such city, as hereinbefore provided, the incorporation thereof shall be complete; whereof notice shall be taken in all judicial proceedings.

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#### CHAPTER II.

§ 5. **Cities Already Incorporated May Re-Incorporate.**—SEC. 6. Any city incorporated by special act or charter, or in any other manner than that provided by this act, including any acting or *de facto* city, may abandon its charter and organize under the provisions of this act with the same territorial limits, by pursuing the course hereinafter prescribed.

§ 6. **Petition for Re-Incorporation—Special Election.**—SEC. 7. Upon the petition of forty legal voters in any such city to the council thereof praying that the question of abandoning its charter be submitted to its legal voters, the council shall immediately direct a special election to be held, at which such question shall be decided, specifying at the same time the time and place or places of holding the same, and appoint the judges and clerks of the election.

§ 7. **Notice of Election.**—SEC. 8. The mayor, or presiding officer of the council, shall at once issue a proclamation giving notice of such election, of the question submitted to the electors, and of the time and place of holding the election, which proclamation shall be published for four weeks in some newspaper published in such city, and if there be none published therein, then such proclamation shall be published by posting a copy thereof in five public places within the corporate limits of such city.

§ 8. **Manner of Voting.**—SEC. 9. At such election, those who desire to vote in favor of abandonment of the charter shall deposit a ballot with the words "in favor of abandonment;" those desiring to vote against the abandonment shall deposit a ballot with the words "against abandonment." The election shall be conducted in other respects as elections for city officers are conducted under the charter. The abstract of votes shall be returned to the city council, who shall canvas the same and declare the result, which shall be entered on the journal.

§ 9. **When Re-Incorporation Complete.**—SEC. 10. If the majority of votes cast at such election be in favor of the abandonment of the charter, the council shall immediately call a special election for the election of officers of such corporation according to the provisions of this act, and from and after the election and qualification of such officers, the former charter of such city shall be considered as abandoned, and such city shall be considered as organized under and shall have all the rights and be subject to all the liabilities of this act. \* \* \* If a majority of the



votes be against abandonment, that question cannot be again submitted until the expiration of one year from the time of such election.

**§ 10. Property Rights: How Affected by Re-Incorporation.—SEC. 11.** All rights and property of every description which were vested in any municipal corporation under its former organization shall be deemed and held to be vested in the same municipal corporation under the organization herein contemplated, and no right or liability, either in favor of or against such corporation existing at the time, whether such corporation be a *de jure* or *de facto* corporation, provided it be acting as a municipal corporation, and no prosecution of any kind shall be affected by such change: *Provided*, That when a different remedy is given by this act which can properly be made applicable to any existing right at the time such change is made, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly: *And provided further*, That the regularity, legality or validity of such municipal corporation under its former organization, shall not in any manner be called in question in any legal proceedings now pending or hereafter to be instituted, but such municipal corporation shall be conclusively deemed to have been legally and regularly organized, valid and existing in all respects and for all purposes.

#### CHAPTER III.

**§ 11. General Powers of Corporation for Taxation.—SEC. 12.** Cities organized as provided in this act shall be bodies politic and corporate under such name as may be selected and adopted by the common council of each at the first meeting thereof, and by such corporate name may sue or be sued, contract or be contracted with, acquire, hold or convey property real or personal, have a common seal which they may change at pleasure, and have such other privileges as are incident to municipal corporations of like character not inconsistent with the laws of this Territory, and shall be subject to the rules, restrictions and obligations prescribed in this act. They shall have power to assess, levy and collect taxes for general municipal purposes not to exceed two-fifths per centum per annum upon all property both real and personal within the city, which is by law taxable for territorial and county purposes, and to levy and collect special taxes as hereinafter provided. But all taxes for general and special municipal purposes, exclusive of assessments for improvement as hereinafter provided in sections seventeen, eighteen and twenty, shall not in any year exceed one and one-half per centum on the property assessed.

**§ 12. Special Powers—Taxation for.—SEC. 13.** They shall have power to make regulations for prevention of accidents by fire, to organize and establish fire departments, ordain rules for government of the same, to provide fire engines and other apparatus and a sufficient supply of water, and to levy and collect special taxes for these purposes, not to exceed in any year one-fifth of one per centum upon the taxable property within the city. \* \* \*

**§ 13. Eminent Domain, etc.,—Taxation for.—SEC. 14.** They shall have power to purchase or condemn and enter upon and take any lands within or without the corporate limits, for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to enclose, ornament and improve the same, and to erect necessary public buildings thereon; and for these purposes may levy and collect special taxes, not exceeding one-fifth per centum in any year. The city shall have entire control of all such buildings, and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may be hereafter dedicated to public use by any person or persons; and

have power, in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same, and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city or the public existing prior to such conveyance. But when such lands are so disposed of and conveyed, enough then shall be reserved for streets to accommodate adjoining property owners.

**§ 14. Lighting, etc.—Taxation for.**—SEC. 15. They shall have power to provide for the lighting of the streets and furnishing the city with gas or lights, and for the erection or construction of such works as may be necessary or convenient therefor; and have power to levy and collect for these objects a special tax, not exceeding one-fifth of one per centum per annum, upon the taxable property within the limits, for the benefit of such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes shall only be assessed upon and collected from property within said limits.

**§ 15. Improving Streets, etc.: Taxation for.**—SEC. 16. They shall have power to provide for clearing, opening, graveling, improving and repairing of streets and highways and alleys, and for the prevention and removal of all obstructions therefrom or from any cross or sidewalk, also to regulate cellar ways and cellar lights on sidewalks within the city, and to provide for clearing the streets; also for constructing sewers and clearing and repairing the same; and have power to assess, levy and collect each year \* \* \* a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the city, which taxes shall be expended for the purposes specified in this section, and the officers of the county shall not levy or collect any road tax, \* \* \* upon the \* \* \* property within the city.

**§ 16. Petition for Improvements—Assessment Districts, etc.**—SEC. 17. They shall have power to construct and repair sidewalks, and to curb, pave, grade, macadamize and gutter any street or streets, highway or highways, alley or alleys therein, or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys, or any part thereof, sufficient to pay the expense of such improvement, and for such purpose may establish assessment districts consisting of a portion or a whole of any such street or streets, highway or highways, alley or alleys, or of several streets, highways and alleys, as may be deemed advisable. But unless the owners of more than one-half of the property subject to assessment for such improvement petition the council to make the same, such improvement shall not be made until a majority of five-sevenths of all the members of the council, by vote, assent to making of the same.

**§ 17. Removal of Certain Nuisances—Expenses for: How Collected.**—SEC. 18. They shall have power to cause any lot of land within their limits on which water at any time becomes stagnant, to be drained or filled up, and to cause any vault upon any lot or block within the city to be cleaned when necessary, and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council with reference to such matters, after such notice, as in such ordinance or resolution may be prescribed, the work necessary may be done at the expense of the city, and the amount so expended shall be assessed as a tax upon such property and shall be collected as other assessments.

**§ 18. Manner of Assessment: Lien of—Collection of.**—SEC. 19. They shall have power by general ordinance to prescribe the mode in which the charge on the respective owners of lots or lands on the lots or lands shall be assessed and determined for the purposes authorized by this act: *Provided always*, That the assessment shall in every case be made upon the basis of the value of the property assessed; such charge



when assessed shall be payable by the owner or owners at the time of the assessment personally, and shall also be a lien upon the respective lots or parcels of land from the time of the assessment. Such charge may be collected and such lien may be enforced by a proceeding in law or in equity, either in the name of such city or of the officer to whom it shall have directed payment to be made. In any such proceedings where pleadings are required it shall be sufficient to declare generally for work and labor done and materials furnished on the particular lot, parcel of land, or street, highway or alley. In any such proceeding, where the court trying the same shall be satisfied that the work has been done, or the material furnished, which according to the true intent and meaning of this act would be properly chargeable upon the lot or land, through or by which the street, highway or alley improved or repaired may pass, a recovery shall be permitted or a charge enforced to the extent of the proper proportion of the value of the work or materials which should be chargeable on such lot or land, notwithstanding any informality, irregularity or defect in the proceedings of the officers of the city, but in such case the court may adjudge as to costs as may be deemed proper, and in cases where an assessment shall have been regularly made and payment shall have been neglected or refused at the time when the same was required, the city shall be entitled to demand and recover, in addition to the amount assessed and interest thereon at ten per cent. per annum from the time of the assessment, five per cent. to defray the expenses of collection, which shall be included in any judgment or decree which may be rendered.

**§ 19. Survey, etc., of Blocks and Streets—Assessment of Property Benefited.**—SEC. 20. They shall have power to provide for the survey

of the blocks and streets of the city and for making and establishing the boundary lines of such blocks and streets and to establish the grades of all streets within the city, and to lay off, widen, straighten, name, change, extend, vacate and establish streets, highways and alleys and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvement authorized by this section sufficient to make compensation for all property condemned or damaged, and to authorize or forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places, but no railway track can thus be located and laid down until after the injury to property abutting upon the street, alley or public place upon which such track is proposed to be located and laid down has been ascertained and compensated in the manner provided for compensation of injuries arising from re-grade of streets in section 106<sup>2</sup> of this act.

**§ 20. Water Works.**—SEC. 21. They shall have power to erect and maintain water works, or to authorize the erection of the same, for the purpose of furnishing the city with a sufficient supply of water, but no such works shall be erected by the city until a majority of the voters of the city, at a general or special election of five-sevenths of the members of the city council, by vote assent thereto.

**§ 21. Water Works: Extra-Territorial Powers of Corporation.**—

SEC. 22. They shall have power to construct or authorize the construction of such water works without the limits of the city, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works; and all reservoirs, streams, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken for five

<sup>2</sup> Should be 109 (*vide* § 45, *infra*).

miles above the point from which it is taken; and to enact all ordinances and regulations necessary to carry the power herein conferred into effect.

**§ 22. Water Works: Rights May be Granted to Private Individuals.**

—SEC. 23. If the right to construct and operate such water works is granted to private individuals or incorporated companies by such city, it may make such grant, to inure for a term of not more than twenty-five years, and may authorize such individual or company to charge and collect from each person supplied by them with water such water rent as may be agreed upon between said person or corporation so building such works and said city, and such city is authorized and empowered to enter into a contract with the individual or company constructing such works to supply the city with water for fire purposes, and for such other purposes as may be necessary for the health and safety thereof, and to pay therefor such sum or sums as may be agreed upon between said contracting parties.

**§ 23. Eminent Domain May Also be Transferred.**—SEC. 24. Such cities are hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works; and if it shall authorize the construction and operation thereof by individuals or private corporations it may confer by ordinance upon such person or persons or corporation, the said power to take and appropriate private property for such purpose.

**§ 24. Taxation for Water Works: Time and Manner of Assessment, etc.**—SEC. 25. They shall have power, at the regular time for levying taxes in any year, to levy and collect a special tax not exceeding one-half of one per centum upon the taxable property within the limits prescribed as hereinafter provided, for the purpose of constructing such water works, provided no such tax shall be levied for the purpose of aiding any private individual or corporation. And when such work shall have been constructed such city shall have power to assess and collect, from time to time, in such manner as the city council may deem equitable, from each tenement or other place supplied with water, such water rent as may be deemed reasonable; and at the regular time for levying taxes in each year to levy and collect, in addition to the tax already authorized by this section, a special tax on taxable property within the limits prescribed as hereinafter provided, sufficient with the water rents hereby authorized to pay the expenses of running and operating such works; and if the right to build, maintain and operate such water works shall be granted to private individuals or corporations by the city, and the city shall contract with such individuals or corporation for a supply of water for any purpose, said city shall levy and collect, each year, a special tax sufficient to pay off such water rent to such individual or company, provided that said taxes shall not exceed one-half of one per centum upon the taxable property within the limits, of the benefits and protection of such works, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes shall only be assessed upon and collected from property within said limits.

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**§ 25. May Borrow Money—Limit of Indebtedness.**—SEC. 33. They shall have power to borrow money on the credit of the city for any purpose within the authority of the corporation, including the payment of any existing debt; but the indebtedness of the city must never exceed in the aggregate the sum of fifteen thousand dollars, and any debt or liability incurred in excess of said sum of fifteen thousand dollars shall be invalid and void.

**§ 26. May Adopt all Proper Ordinances.**—SEC. 34. They shall have power to adopt proper ordinances for the government of the city, and to carry into effect the powers given by this act; \* \* \*

§ 27. **May Build, etc., Wharves, etc.**—SEC. 35. \* \* \* They shall have power to \* \* \* build, construct and regulate wharves, piers and landing places at the foot of any street terminating at the shore of any bay, lake or river. And to regulate and prescribe the limits of the extension of wharves into the waters of any harbors within the city limits, to prevent the construction of wharves beyond such limits, and to remove any wharf or wharves that have heretofore been or shall hereafter be constructed beyond such limits at the expense of the owner or owners of such wharf or wharves, to be recovered by ordinary civil action, or as the city council may by ordinance provide.

§ 28. **All Necessary Powers Conferred.**—SEC. 36. They shall \* \* \* have such other powers and privileges not herein specifically enumerated as are incident to municipal corporations of like character and degree, not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act according to the true intent and meaning thereof.

## CHAPTER IV.

§ 29. **In Whom Corporate Powers Vested.**—SEC. 37. The power and authority given to each municipal corporation by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned or may be created under its authority.

§ 30. **Officers.**—SEC. 40. There shall be elected \* \* \* marshal, clerk, attorney, \* \* \* city surveyor, street commissioner \* \* \* and an assessor, who shall be officers of the municipal corporation; the assessor and collector to be one officer, who shall be officers of the municipal corporation.

## CHAPTER VII.

§ 31. **Legislative Powers.**—SEC. 57. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein, or by some ordinance of the city, conferred on some other officer.

## CHAPTER IX.

§ 32. **Assessor to Make List of Taxes.**—SEC. 78. The assessor must annually make a correct list of all the property subject to taxation by the city, with the valuation thereof, and certify and return the same to the clerk.

§ 33. **How Property Assessed.**—SEC. 80. The assessment of property must be made in the manner prescribed by law for assessing property for territorial and county taxes; but the form of the assessment roll, and the rule for ascertaining the ownership of property, and in whose name it may be assessed, may be prescribed by ordinance, and the time of making such assessment and the return thereof, and of applying to the council for a revision thereof, must be prescribed by ordinance.

## CHAPTER XI.

§ 34. **Poll Tax: May Become Lien on Real Property.**—SEC. 89. The assessor shall annually make out a list of the names of all persons within the city liable to pay a road poll tax, as provided in section seven of this act, and return such list to the council with his assessment of property; said list of names shall be given to the treasurer, and he shall at once

proceed to collect such poll tax as the council may have levied for the year from each person upon said list; the treasurer shall place upon his list the names of all persons found within the city liable to pay such poll tax who shall fail to produce a receipt for the payment of a road poll tax for the current year; he shall demand the amount due from each person named upon the list, and shall proceed at once to collect the same from any person who shall fail to pay the same when so demanded by levy and sale of the property, real or personal, of such person so delinquent, or sufficient thereof for that purpose and to pay the expenses of the levy and sale. *Provided*, That any person may pay said poll tax in work upon the streets of the city, under the direction of the street commissioner, at the rate of two dollars per day. Any person having men employed either for himself or a company, shall, when required, provide a list of the names of all such persons so employed liable to pay such road poll tax, and if such employer, or agent of the employer, shall fail to furnish such list or shall furnish an incomplete or otherwise incorrect one, then said employer or company shall be liable for the amount of the road poll tax of his or their employes, and shall pay the road poll tax due by such men or the men so employed on being notified in writing by the treasurer.

**§ 35. Rate of Interest—Lien of Taxes.**—SEC. 90. Whenever any general or special tax has been levied as provided and authorized in chapter III of this act, every part thereof shall bear interest at the legal rate\* from the time it is due and payable until paid or collected; and all such taxes shall be a lien upon the real estate upon which the same were assessed which shall be prior to all other liens except for a prior tax.

**§ 36. Council Must Determine When Taxes Delinquent Duty of Treasurer.**—SEC. 91. The council must provide by ordinance within what time all taxes, levied as provided and authorized in chapter II, may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes, and must be collected as such. Within five days from the expiration of the time limited for paying taxes to the treasurer, he must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

**§ 37. Warrant for Collection of Taxes.**—SEC. 92. The council must thereafter order the clerk to deliver the tax roll to the treasurer of the county within which the city is located, and issue and annex thereto a warrant directed to said treasurer commanding him to proceed and forthwith to collect the delinquent taxes upon such roll, in the manner provided by law, and pay the same to the treasurer, less his fees and costs of collection, and return the warrant with his doings thereon, and the receipt of the city treasurer for all moneys collected thereby and paid to the city treasurer, to the clerk.

**§ 38. Force and Effect of Warrant.**—SEC. 93. Such warrant, for the purpose of collecting such delinquent taxes, shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

**§ 39. Collection of Taxes.**—SEC. 94. The county treasurer shall proceed to collect the taxes upon such roll at the same time and in the same manner as he is required to do in collecting delinquent territorial and county taxes; and for such purposes he shall have the same authority as is given to him by the laws of the Territory relating to the assessment and collection of territorial and county taxes. He shall pay to the city treasurer monthly all moneys collected and due the city, as provided in section 98 of this act.

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\* Ten per cent, per annum. (See "An act to regulate the interest of money," Tenth Reg. Sess. 1862-63, p. 433.)



§ 40. **Return of Warrant.**—SEC 96. The council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant and collected as a part of the tax; council may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the treasury.

## CHAPTER XII.

§ 41. **Proceedings Relative to Taxes Presumed Regular.**—SEC. 102. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith, shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.

§ 42. **Tax Deed: What Shall State—Style of Warrant.**—SEC. 104. In making a deed for real property sold for delinquent taxes it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city for a delinquent tax, and the amount thereof, together with the date of the sale and the amount paid thereat by the purchaser. The style of a warrant for the collection of delinquent taxes shall be in the name of such city.

§ 43. **Basis of Tax Valuation.**—SEC. 106. All real property within the limits of such city, not laid off in blocks at the time of making any assessment authorized by this act, must be assessed at its cash value per acre or fraction thereof as the case may be.

§ 44. **Street Improvements Must be by Petition.**—SEC. 108. No street, highway or alley shall be extended, widened, altered or vacated except on petition to the city council, signed by a majority of the resident owners of real estate within the ward or wards in or through which such street, highway or alley is proposed to be extended, widened, altered or vacated.

§ 45. **Grade of Street: Effect of Change, etc.—How Damages Determined.**—SEC. 109. When the grade of any street, highway or alley shall have been established by authority of such city, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterwards change the established grade or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage; and when the parties interested are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two so appointed, or, in case of their disagreement, by the city council; said appraisers shall be sworn to faithfully execute their duties according to the best of their ability, they shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment; they shall assess the damage sustained over and

above the additional value of the property by reason of the change or improvement; they shall sign their report and deliver the same to the clerk of the district court of the district embracing the city, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final and the city shall pay the amount so assessed, and upon filing a precipe therefor, the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk shall, upon filing a written precipe therefor by the city or any person aggrieved, within said twenty days, enter the case upon the trial docket for the next term; the party claiming damages shall be the plaintiff and the city shall be the defendant; the usual pleadings in a civil action may be filed, or such special pleadings as the court shall allow, and the issue thus formed shall be tried as other civil actions. \* \* \*

**§ 46. Damages for Condemnation, in Certain Cases: How Ascertained.**—SEC 110. When private property shall have been condemned and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, as provided in section eleven of this act, the assessment upon the various lots or parcels of land so charged and the appraisement of damages to be paid to the owners of the property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property subject to assessment, and one by the owner or owners of property condemned or damaged, or if either or both said classes of property owners fail or refuse to make such appointment after ten days' notice so to do, which notice shall be given in the manner to be prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn, shall proceed in making the assessment, and shall report within the time and in the manner prescribed for appraisements in the preceding section; their award shall be final, unless objection is made within twenty days from the time of the return thereof to the clerk of the district court. Any party aggrieved by the award may, upon filing a precipe therefor, have the case docketed for trial at the next term of the court, when the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair assessments upon property, the city shall be plaintiff and the owner of the property defendant. The issue shall be made up, the case tried and determined, and costs taxed as provided in the preceding section. *Provided*, That all costs taxed against the city, and all costs of the appraisements and other proceedings under this section, shall be added to the gross amount to be raised by assessment and collected from the several property holders, in the same proportion as said gross amount and said assessments and costs shall be a lien upon the property therewith charged.

**§ 47. In Other Cases.**—SEC 111. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

**§ 48. No Special Tax Without Majority Vote of Resident Property Holders.**—SEC. 112. No special tax for any purpose as provided in this act shall be assessed unless by a majority vote of all resident property holders in any city hereafter incorporated under this act.

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**No. 437.—AN ACT SUPPLEMENTAL TO AND EXPLANATORY OF CHAPTER 2 OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE INCORPORATION OF CITIES," APPROVED NOVEMBER 9, 1877, AND TO DECLARE CERTAIN INCORPORATIONS THEREUNDER VALID.<sup>1</sup>**

§ 1. **Re-Incorporation.**—SECTION 1. *Be it enacted, etc.,* That section 1<sup>2</sup> of chapter 2 of "An act to provide for the incorporation of cities," approved November 9, 1877, be amended so as to include after the words "including any acting or *de facto* city," and as supplementary thereto, the following words: "Or any city or town incorporated under the provisions of any act of the legislative assembly of this Territory, whether called a city or town, and whether incorporated directly under such act or acts, or by some authority therein specified, to declare such incorporation or any town or city exercising corporate powers," and said section 1, chapter 2, shall read with the foregoing supplementary provision included therein and forming a part thereof.

§ 2. **"City" Defined.**—SEC. 2. That the word "city," contained in the act herein supplemented, shall be construed to mean, include and be synonymous with the word "town."

§ 3. **All Attempted Re-Incorporations Declared Valid.**—SEC. 3. That the act of any city or town, or place exercising corporate powers, which have heretofore followed chapter 2<sup>3</sup> of the act entitled "An act to provide for the incorporation of cities," approved November 9, 1877, in attempting to organize thereunder, and all acts legally done after such organization, is hereby declared legal, valid and binding.

\* \* \* \* \*  
<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Bien. Sess. 1879, p. 127.) In effect from date.

<sup>2</sup> See No. 436, *supra*, § 5.

<sup>3</sup> See No. 436, §§ 5 to 10, inclusive, *supra*.

**No. 438.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE INCORPORATION OF TOWNS," APPROVED NOV. 29, 1871.<sup>1</sup>**

§ 1. **Repealing Clause.**—SECTION 1. *Be it enacted, etc.,* That the act entitled "An act to provide for the incorporation of towns," approved Nov. 29, 1871,<sup>2</sup> be and the same is hereby repealed.

§ 2. **Force and Effect of this Act.**—SEC. 2. Nothing in this act contained shall invalidate or affect any ordinance passed or acts performed by towns incorporated under said act, and all town corporations now existing incorporated under said act are hereby continued, and all rights vested or liabilities incurred under any such ordinance or acts of said town corporations shall not be hereby lost, impaired, or discharged, but any and every act lawfully done under said corporations are hereby ratified and legalized.

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<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Bien. Sess. 1881, Special Laws, p. 22.) In effect from date.

<sup>2</sup> See No. 434, *supra*.

**No. 439.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE INCORPORATION OF CITIES," APPROVED NOV. 9, 1877.<sup>1</sup>**

§ 1. **Repealing Clause.**—SECTION 1. *Be it enacted, etc.,* That the act entitled "An act to provide for the incorporation of cities," approved November 9, 1877,<sup>2</sup> be and the same is hereby repealed.

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<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Bien. Sess. 1881, Special Laws, p. 23.) In effect from date.

<sup>2</sup> See No. 436, *supra*.

**§ 2. Force and Effect of This Act.**—SEC. 2. Nothing in this act contained shall invalidate or affect any ordinance passed or acts performed by cities incorporated under said act, and all city corporations now existing, lawfully incorporated under said act, are hereby continued, and all rights vested or liabilities lawfully incurred during any such ordinances or acts of said city corporations shall not hereby be lost, impaired or discharged but any and every act lawfully done under said corporations are hereby ratified and legalized.

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**No. 440.—AN ACT AUTHORIZING CITIES, INCORPORATED TOWNS AND VILLAGES TO PROVIDE FOR A SUPPLY OF WATER.<sup>1</sup>**

**§ 1. Cities, etc., May Contract for Water Works.**—SECTION 1. *Be it enacted, etc.*, That all cities, incorporated towns and villages in this Territory be and they are hereby authorized to contract, for a term of years not exceeding twenty-five, with any person, firm or corporation, for a supply of water for the purposes of fire protection and for the use of the inhabitants thereof, or to provide for such supply of water by the erection, construction and maintaining of a system of water works.

\* \* \* \* \*

**§ 2. Vote of Taxpayers Necessary.**—SEC. 3. That whenever the council or board of trustees shall deem it for the interest of the inhabitants of the city, town or village that water works should be erected and maintained by such city, town or village, the matter of erecting such works and the proposed cost thereof shall be submitted to a vote of the taxpayers of the city, town or village, as provided in section two of this act, and if two-thirds of the taxpayers of such city, town or village voting at such special election shall vote for water works, such city, town or village may then proceed to erect the water works, lay the necessary water main pipes, establish hydrants and such other work as may be necessary—including the erection of reservoirs—and to maintain the same: *Provided*, That no city, town or village shall incur a debt for the erection of water works in excess of twenty per centum of the valuation of the property in such city, town or village as rated for taxation at the annual assessment next preceding the election held under this section: \* \* \*

**§ 3. Levy of Taxes—Consent of Congress Necessary—Rate of Interest.**—SEC. 4. Such cities, towns or villages may borrow money and levy and collect a general tax in the same manner as other municipal taxes may be levied, for the erection, construction and maintaining of such water works, and appropriate money for the same, or carrying out the provisions of the contract; and the taxes levied annually shall be sufficient to pay the interest upon the money borrowed and to create a sinking fund for the payment of the principal sum borrowed: *Provided*, That before any money shall be borrowed, or bonds issued, the consent of the congress of the United States thereto shall first have been obtained: *And provided further*, That a higher rate of interest than eight per centum shall not be paid, and that any bonds which may be issued shall be for a period of not less than ten nor more than twenty-five years.

**§ 4. Extra-Territorial Powers.**—SEC. 5. For the purpose of erecting, constructing, locating, maintaining or supplying such water works, any such city, town or village may go beyond its territorial limits and may take, hold and acquire property and real estate by purchase or otherwise, and shall have the power to take, hold and acquire and condemn any and all necessary property and real estate for the location, erection, construction and maintaining of such water works, in the manner provided for the taking and condemning of private property for public use; and may

<sup>1</sup>Approved Dec 1, 1881 (See Eighth Bien. Sess. 1881, Special Laws, p. 24.)

also acquire and hold real estate and other property and rights necessary for the location, erection, construction and maintenance of such water works by purchase or otherwise; \* \* \*

§ 5. **Power of Council.**—SEC. 6. The common council of such cities, or trustees of such towns or villages, shall have power to make and enforce all needful rules and regulations in the erection, construction and management of such water works, and for the use of the water supplied by the same, and such cities, towns and villages shall have the right and power to tax, assess and collect from the inhabitants thereof such tax, rent or rates for the use and benefit of water used or supplied to them by such water works as the common council or board of trustees, as the case may be, shall deem just and expedient, and all such water taxes, rents or rates shall be a lien upon the premises and real estate upon or for which the same is used or supplied, and such taxes, rents or rates shall be paid and collected and such lien enforced in such manner as the common council or trustees, as the case may be, shall by ordinance direct and provide.

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§ 6. **When This Act to be in Force.**—SEC. 8. This act, when approved by the governor of this Territory, shall be in force upon its approval or ratification by the congress of the United States.

**No. 441.**—AN ACT AUTHORIZING INCORPORATED CITIES, TOWNS OR VILLAGES TO CREATE ASSESSMENT DISTRICTS WITHIN THE INCORPORATED LIMITS OF SUCH CITY, TOWN OR VILLAGE, FOR THE PURPOSE OF RAISING REVENUE TO OPEN OR IMPROVE THE STREETS, HIGHWAYS AND ALLEYS THEREIN.<sup>1</sup>

§ 1. **Power to Improve Streets, etc.—Assessment Districts.**—*Be it enacted, etc.* SECTION 1. Any municipal corporation created under the laws of Washington Territory shall have power to cause any street, highway or alley therein to be opened, widened, cleared, graded, graveled, bridged, paved, macadamized, curbed, sewered, guttered, drained, sidewalked or repaired in any manner; and for such purpose shall have power to establish assessment districts within the municipality upon which to assess the expense of making such improvements; and shall have power to assess the expense of any such improvement upon the property within such assessment district in such proportion as it may deem just.

§ 2. **Formation of Districts: Manner of.**—SEC. 2. Upon the application of three or more freeholders of any such municipality, the city council or other governing body thereof shall forthwith establish an assessment district for the improvement specified in such application and shall fix the proportion of assessment to be imposed upon each of the subdivisions thereof, and shall cause a map of said assessment district and its subdivisions to be made and filed with the clerk of said municipality.

§ 3. **Authority for Improvement.**—SEC. 3. No improvement shall be made under the provisions of this act at the expense of the owners of the land embraced by an assessment district, unless more than one-half of the resident owners of the land embraced by said assessment district shall have petitioned the governing body of such municipality to order such improvements to be made, unless said council or other governing body shall decide it necessary, which decision shall be evidenced by a two-thirds vote of all the members of said city council or other governing body voting therefor.

<sup>1</sup>Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 16.) In effect from date.

**§ 4. Resolution of Intention.**—SEC. 4. Before ordering any work done or improvement made, authorized by this act, the city council or other governing body of such municipality shall pass a resolution declaring its intention so to do and shall thereafter cause a survey of the improvement and an estimate of the entire cost thereof to be made and filed in the office of the clerk of such municipality, for the inspection of all parties interested therein, which survey and estimate shall be made by a person to be named in such resolution.

**§ 5. Notice: Manner of.—Substance of.**—SEC. 5. The clerk of said municipality shall forthwith cause a notice of the filing of such survey and estimate to be published daily for five successive days in some newspaper published in the municipality; such notice must contain a true copy of said resolution of intention, and must specify the street, highway or alley, or part thereof, proposed to be improved and the kind of improvement proposed to be made together with the estimated cost thereof and a description of the property embraced within said assessment district, and shall specify in said notice that if sufficient remonstrance be not made before the expiration of ten days after date of last publication, said improvement will be made at the expense of the owners of the parcels of land embraced within said assessment district.

**§ 6. Remonstrance: Effect of.**—SEC. 6. If within ten days from the final publication of said notice more than one-half of the resident owners of the property embraced within said assessment district shall file with the clerk of said municipality a remonstrance against said improvement, the same shall not be made at the expense of the owners of the land embraced by said assessment district unless the city council or other governing body of such municipality shall decide such work or improvement necessary, which decision shall be evidenced by a two-thirds vote of all the members of said city council or other governing body voting therefor.

**§ 7. When and at Whose Expense Improvement Made.**—SEC. 7. If no remonstrance be made and filed as provided in section five, the owners of the land embraced by said assessment district shall be deemed to have consented to the making of said improvement, or if such remonstrance has been made and filed, and the city council or other governing body of such municipality decide such work or improvement necessary, it shall at its earliest convenience thereafter and within six months from the publication of such notice, make the proposed improvements at the cost and expense of the owners of the land embraced by said assessment district either by or through such officer as may be designated by it or by contract, let by the same to any person: *Provided*, That no contract shall be made providing for the payment to the contractor for such improvement of an amount greater than the estimated cost thereof published as aforesaid.

**§ 8. Assessment for Expense.**—SEC. 8. Such cost and expense shall be assessed upon said parcels of land in the following manner: The council or other governing body of such municipality shall first determine the percentage of the cost of improvement to be imposed upon each subdivision of the assessment district. The cost and expense of the work done and materials furnished in making the entire improvement, shall then be assessed upon the various parcels of land composing each subdivision of the assessment district, ratably according to the valuation of each of said parcels of land exclusive of the improvements thereon, as determined by the then next preceding regular annual assessment thereof for general municipal taxation, and the owners of any land so assessed shall be allowed a credit for any and all work and labor performed and material used in front of their respective lots prior to the resolution of intention to make said improvement, which amount shall be fixed by such officer or committee as the governing body of such municipality may select, which credit so allowed shall be added to the contract price or cost of such improvement.

**§ 9. Limit of Assessment.**—SEC. 9. No assessment shall be levied upon any property which together with all assessments for street improvements that may have been levied upon the same property during the preceding year will amount to a sum greater than fifty per cent. of the value of which said property was assessed upon the then next preceding assessment roll of the municipality.

**§ 10. Duty of Clerk Relative to Assessments.**—SEC. 10. It shall be the duty of the clerk of said municipality within five days after the filing with him of any contract providing for the making of any improvement authorized by this act, duly approved by the proper officers, to make out and complete an assessment list of the parcels of land embraced by said assessment district, which shall show and exhibit in separate columns the name of the owner, if known, of each parcel of land separately assessed, and if unknown the word "unknown" shall be written opposite such parcel of land; the assessment number of each parcel of land separately assessed, the subdivision number thereof, if any, a brief description by lot and block number or otherwise of each parcel of land separately assessed, the assessed value of the same, the subdivision proportion, if any, of such assessment, the rate of assessment, the allowance for work done and the net assessment upon each parcel of land separately assessed. To said assessment list the clerk of said municipality shall attach the map of the assessment district for said improvement specified in section two of this act. Said assessment list and map thus attached shall constitute and be known as the assessment roll, and shall be filed in the office of the clerk of said municipality.

**§ 11. Duty of Clerk in Special Case.**—SEC. 11. When an improvement shall not be made by contract, the clerk shall within five days from the filing in his office of a notice of the completion and cost thereof, make out and complete an assessment list as provided in section ten.

**§ 12. Notice of Assessment.**—SEC. 12. The clerk of such municipality when said assessment roll is completed shall forthwith give notice by publication for at least five days in a newspaper, published in such municipality, that said assessment roll is on file in his office, the date of the filing of the same and that the same is open for public inspection. Said notice shall specify a time within which the governing body of such municipality will meet to hear appeals of parties aggrieved by such assessment.

**§ 13. Right of Appeal.**—SEC. 13. Any owner of land in said assessment district may, within ten days after the first publication of said notice provided for in the last section, appeal to the governing body of such municipality from said assessment, which appeal shall be in writing and briefly state the objections to said assessment and shall be filed with the clerk of said municipality.

**§ 14. Basis of Appeal.**—SEC. 14. At the time appointed for hearing appeals from said assessment the governing body of said municipality shall hear and decide upon all objections which may be presented by any party interested; to the regularity of the proceeding in making said improvement, or in levying said assessment, or to the correctness of the amount of said assessment, or of the amount levied upon any particular parcel of land, and, if the proceedings are found by them to have been regular, they shall correct any errors which may be found in the assessment and shall pass an order approving and confirming said proceedings and said assessment as so corrected by them, and their decision and order shall be a final determination of the regularity, validity and correctness of said assessment, and of the amount thereof levied upon each parcel of land, and shall bar all persons appearing and objecting or failing to appear from any further recourse in law.

**§ 15. Limitation of Appeal.**—SEC. 15. The governing body of such municipality must provide in said order approving and confirming such



**§ 4. Resolution of Intention.**—SEC. 4. Before ordering any work done or improvement made, authorized by this act, the city council or other governing body of such municipality shall pass a resolution declaring its intention so to do and shall thereafter cause a survey of the improvement and an estimate of the entire cost thereof to be made and filed in the office of the clerk of such municipality, for the inspection of all parties interested therein, which survey and estimate shall be made by a person to be named in such resolution.

**§ 5. Notice: Manner of—Substance of.**—SEC. 5. The clerk of said municipality shall forthwith cause a notice of the filing of such survey and estimate to be published daily for five successive days in some newspaper published in the municipality; such notice must contain a true copy of said resolution of intention, and must specify the street, highway or alley, or part thereof, proposed to be improved and the kind of improvement proposed to be made together with the estimated cost thereof and a description of the property embraced within said assessment district, and shall specify in said notice that if sufficient remonstrance be not made before the expiration of ten days after date of last publication, said improvement will be made at the expense of the owners of the parcels of land embraced within said assessment district.

**§ 6. Remonstrance: Effect of.**—SEC. 6. If within ten days from the final publication of said notice more than one-half of the resident owners of the property embraced within said assessment district shall file with the clerk of said municipality a remonstrance against said improvement, the same shall not be made at the expense of the owners of the land embraced by said assessment district unless the city council or other governing body of such municipality shall decide such work or improvement necessary, which decision shall be evidenced by a two-thirds vote of all the members of said city council or other governing body voting therefor.

**§ 7. When and at Whose Expense Improvement Made.**—SEC. 7. If no remonstrance be made and filed as provided in section five, the owners of the land embraced by said assessment district shall be deemed to have consented to the making of said improvement, or if such remonstrance has been made and filed, and the city council or other governing body of such municipality decide such work or improvement necessary, it shall, at its earliest convenience thereafter and within six months from the publication of such notice, make the proposed improvements at the cost and expense of the owners of the land embraced by said assessment district either by or through such officer as may be designated by it or by contract, let by the same to any person: *Provided*, That no contract shall be made providing for the payment to the contractor for such improvement of an amount greater than the estimated cost thereof published as aforesaid.

**§ 8. Assessment for Expense.**—SEC. 8. Such cost and expense shall be assessed upon said parcels of land in the following manner: The council or other governing body of such municipality shall first determine the percentage of the cost of improvement to be imposed upon each subdivision of the assessment district. The cost and expense of the work done and materials furnished in making the entire improvement, shall then be assessed upon the various parcels of land composing each subdivision of the assessment district, ratably according to the valuation of each of said parcels of land exclusive of the improvements thereon, as determined by the then next preceding regular annual assessment thereof for general municipal taxation, and the owners of any land so assessed shall be allowed a credit for any and all work and labor performed and material used in front of their respective lots prior to the resolution of intention to make said improvement, which amount shall be fixed by such officer or committee as the governing body of such municipality may select, which credit so allowed shall be added to the contract price or cost of such improvement.



**§ 9. Limit of Assessment.**—SEC. 9. No assessment shall be levied upon any property which together with all assessments for street improvements that may have been levied upon the same property during the preceding year will amount to a sum greater than fifty per cent. of the value of which said property was assessed upon the then next preceding assessment roll of the municipality.

**§ 10. Duty of Clerk Relative to Assessments.**—SEC. 10. It shall be the duty of the clerk of said municipality within five days after the filing with him of any contract providing for the making of any improvement authorized by this act, duly approved by the proper officers, to make out and complete an assessment list of the parcels of land embraced by said assessment district, which shall show and exhibit in separate columns the name of the owner, if known, of each parcel of land separately assessed, and if unknown the word "unknown" shall be written opposite such parcel of land; the assessment number of each parcel of land separately assessed, the subdivision number thereof, if any, a brief description by lot and block number or otherwise of each parcel of land separately assessed, the assessed value of the same, the subdivision proportion, if any, of such assessment, the rate of assessment, the allowance for work done and the net assessment upon each parcel of land separately assessed. To said assessment list the clerk of said municipality shall attach the map of the assessment district for said improvement specified in section two of this act. Said assessment list and map thus attached shall constitute and be known as the assessment roll, and shall be filed in the office of the clerk of said municipality.

**§ 11. Duty of Clerk in Special Case.**—SEC. 11. When an improvement shall not be made by contract, the clerk shall within five days from the filing in his office of a notice of the completion and cost thereof, make out and complete an assessment list as provided in section ten.

**§ 12. Notice of Assessment.**—SEC. 12. The clerk of such municipality when said assessment roll is completed shall forthwith give notice by publication for at least five days in a newspaper, published in such municipality, that said assessment roll is on file in his office, the date of the filing of the same and that the same is open for public inspection. Said notice shall specify a time within which the governing body of such municipality will meet to hear appeals of parties aggrieved by such assessment.

**§ 13. Right of Appeal.**—SEC. 13. Any owner of land in said assessment district may, within ten days after the first publication of said notice provided for in the last section, appeal to the governing body of such municipality from said assessment, which appeal shall be in writing and briefly state the objections to said assessment and shall be filed with the clerk of said municipality.

**§ 14. Basis of Appeal.**—SEC. 14. At the time appointed for hearing appeals from said assessment the governing body of said municipality shall hear and decide upon all objections which may be presented by any party interested; to the regularity of the proceeding in making said improvement, or in levying said assessment, or to the correctness of the amount of said assessment, or of the amount levied upon any particular parcel of land, and, if the proceedings are found by them to have been regular, they shall correct any errors which may be found in the assessment and shall pass an order approving and confirming said proceedings and said assessment as so corrected by them, and their decision and order shall be a final determination of the regularity, validity and correctness of said assessment, and of the amount thereof levied upon each parcel of land, and shall bar all persons appearing and objecting or failing to appear from any further recourse in law.

**§ 15. Limitation of Appeal.**—SEC. 15. The governing body of such municipality must provide in said order approving and confirming such

assessment within what time, nor less than thirty nor more than sixty days after the time appointed for hearing appeals therefrom, the same may be paid to the treasurer of such municipality, and all such assessments not paid to the treasurer within such time shall thereafter draw interest at the rate of ten per cent. per annum until paid.

§ 16. **Invitation for Bids.**—SEC. 16. Before entering into any contract for said improvement the governing body of such municipality shall invite sealed bids for such improvement by publishing a notice requesting the same for ten days in a newspaper published in the municipality. All bids shall be filed with the clerk within such time as may be specified in the notice, and none others shall be considered. Such bids shall not be opened except at a meeting of the governing body of said municipality. Invitations for bids may be renewed from time to time by publishing notice as aforesaid and either before or after the opening of the bids on file. The governing body of such municipality may reject any or all of such bids and may adopt any one of them which in their discretion they may deem best, whether the same be the lowest or not.

§ 17. **Manner of Collection of Assessment.**—SEC. 17. The mode and manner of the collection of the assessment provided for herein shall be as provided by the charters and ordinances of the respective cities, towns or villages.

§ 18. **Scope of This Act.**—SEC. 18. This act shall not be considered as a repeal or amendment of existing city charters relating to the subject-matter to which this act relates; nor shall this act apply to any city or town having a population of less than six thousand people

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**No. 442.—AN ACT FOR THE INCORPORATION OF TOWNS AND VILLAGES  
IN THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. **Petition for: Substance of—Corporate Powers.**—*Be it enacted, etc.* SECTION 1. When a majority of the taxable inhabitants of any town or village within this Territory present a petition to the judge of the district court having jurisdiction of real actions in such county, setting forth the metes and bounds of such town or village, together with the adjacent bounds, in all not exceeding in area one square mile, which they desire to include therein, and praying that they may be incorporated, and police established for their local government, and the judge of the district court shall be satisfied that a majority of the taxable inhabitants of such town or village as shown by the last assessment roll of said county shall have signed such petition, such judge of the district court shall cause such petition to be entered in full on the records of such court, together with the names of the petitioners, and shall thereupon make and record an order declaring such town or village duly incorporated, designating in such order the metes and bounds thereof and the name of such town or village, and thenceforward the inhabitants within such metes and bounds are a body politic and corporate by the name and style of the inhabitants of the town (or village as the case may be) of (naming it) and by that name they and their successors shall be known in law, have perpetual succession (unless such corporation be dissolved), sue and be sued, implead and be impleaded, defend and be defended in all courts of law and equity, and in all actions, pleas and matters whatsoever; may grant, purchase, hold and receive property, both real and personal, and may lease, sell and dispose of the same for the benefit of such town or village; and may have a common seal, and make and alter the same at pleasure.

§ 2. **Board of Trustees.**—SEC. 2. The corporate powers and duties of every town or village so incorporated are vested in a board of trustees

<sup>1</sup>Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 221.) All conflicting acts and parts of acts repealed. In effect from date.

to consist of five members. The first board of trustees must be appointed by such judge of the district court at the time of declaring such town or village incorporate, and continue in office until their successors are elected and qualified, and such successors must be chosen by the qualified electors residing in such town or village on the first Monday of April in every year, in the manner hereinafter provided.

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**§ 3. Powers of Board.**—SEC. 7. Said board of trustees shall have power: (1) To pass by-laws and ordinances. \* \* \* (23) To have streets and alleys opened, graded and repaired, and the footways and sidewalks paved or planked at the expense of the occupants of the adjacent lots, or if any such owner or occupant fails to open, repair or pave or plank the same as required by ordinance, such board of trustees may cause the same to be done and may recover the full expense thereof, and the costs of the proceedings to obtain such recovery from such owner or occupant, by action in the name of the corporation before any court of competent jurisdiction, and if any tenant be required to open, grade, repair or plank in front of the property occupied by him, the expense thereof is a good set-off against so much rent due the owner, but no tenant can be required to expend more than the rent due, and such charges are a lien upon the property and may be enforced and collected as other liens \* \* \* (28) To erect and maintain water works for the purpose of furnishing water to the inhabitants of such town or village for the extinguishment of fires, and for such purposes to condemn lands, to acquire, by condemnation or otherwise, waterways, springs, streams and water courses, the right-of-way, and to do all things necessary to enable such town or village to acquire and maintain water works within the limits, not inconsistent with the laws of the United States or this Territory (34) To establish and maintain a public reading room and library in such town or village, to be under the management and control of a board of trustees, to appoint a librarian and janitor therefor and to levy by tax upon the taxable property within such town or village, annually, not exceeding two mills on the dollar, for the purpose of establishing and maintaining such free public reading room and library; said taxes to be levied and collected in the same manner as other taxes are levied and collected in said town or village for general purposes. \* \* \*

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**§ 4. May Issue Bonds—How Payable—Taxation for Payment, etc.**  
—SEC. 11 The board of trustees have power to provide for the issuing bonds for the purpose of funding the indebtedness of the town or village. Said bonds must be payable in not more than twenty years from the date of their issue, and must bear interest at a rate not exceeding ten per cent. per annum, with interest coupons attached, payable annually or semi-annually, and to levy taxes upon all taxable property in such town or village, in addition to other taxes, for the payment of said coupons as they become due, and such taxes shall be payable only in cash or such coupons. But the bonded and other indebtedness must not at any one time exceed four per cent of the value of the real and personal property in said town or village, according to the assessment of the preceding year. And no bonds must be negotiated by said board of trustees at less than their par value

**§ 5. Sinking Fund.**—SEC. 12. The board of trustees have power to make provisions for a sinking fund to pay at maturity the bonded indebtedness of town or village, and to levy and collect taxes on all taxable property in said town or village in addition to other taxes for the purpose of paying the same, and to provide that said tax be paid in cash; and whenever any town or village has heretofore issued bonds by virtue of any special authority derived from the legislature of this Territory, the board of trustees have power to levy and collect taxes for the purpose of paying such bonds as is provided in the law giving such authority.



**§ 6. General Powers of Board.**—SEC. 13. The board of trustees have power to make any and all improvements of a general nature in a town or village, and for the purpose of paying for the same may borrow money, on such terms as the board of trustees may prescribe, subject, however, to the limitations and restrictions in this act; and for money so borrowed may issue the bonds of the town or village, due in not more than twenty years from date of their issue, with interest thereon at a rate not exceeding ten per cent. per annum, with interest coupons thereto attached, payable annually or semi-annually, and may levy and collect taxes upon all the taxable property in the town or village, in addition to other taxes, to pay such bonds at their maturity and the interest coupons as they respectfully [respectively] become due, which taxes must be paid in cash only.

**§ 7. General Taxes: What Taxable—How Taxed.**—SEC. 14. The board of trustees have power to levy and collect taxes for general revenue purposes, not to exceed ten mills on the dollar in any one year, on all property within the limits of such incorporated towns or villages, taxable according to the laws of the Territory of Washington, the valuation of such property to be taken from the books or assessment rolls of the county assessor of the county in which such town or village is situated for the last preceding assessment.

**§ 8. Assessment: Duty of Assessor.**—SEC. 15. The assessor appointed by the board of trustees of such town or village must make a fair and full assessment of all the real and personal and other property within the limits of such town or village subject to taxation under the laws of this Territory, and he must deliver the same to the board of trustees, and the clerk of said board of trustees must, under the direction of said board of trustees, prepare and deliver to the treasurer of such town or village a duplicate of said tax list, keeping in his office the original list, returned by the assessor as aforesaid, and he may receive therefor such compensation as the board of trustees may prescribe: *Provided*, That the board of trustees shall be a board of equalization, and shall have power to equalize the assessment so made at any regular meeting after such assessment list is returned and after having given at least five days public notice of such purpose and meeting in such manner as the board of trustees shall by ordinance prescribe, and the copy of the tax list delivered by the clerk to the treasurer as aforesaid, shall be a copy of the list as equalized by the board of trustees.

**§ 9. Collection of Taxes: Notice of.**—SEC. 16. The treasurer of such town or village receiving such duplicate tax list, within ten days thereafter must give notice that the said tax list is in his hands for the collection of taxes; that the taxes, if not paid within three months from the date of such notice, will be delinquent, and subject to all the forfeiture and penalties attaching to delinquent taxes under the general laws of this Territory; such notice must be given by publication once in a newspaper published in the town or village, or in case no newspaper is published therein, then by printed or written notices posted in four or more public places within the limits of said town or village.

**§ 10. Delinquent Taxes: How Collected.**—SEC. 17. Whenever any of said taxes become delinquent as aforesaid, it is the duty of the treasurer of said town or village to deliver to the marshal of any such town or village a certified list of the delinquent taxes due said town or village, as well for previous years also, and the lots and parcels of land upon which such delinquent taxes are due must be advertised and sold by such marshal for the same time, in the same manner and with like effect as lands or lots are sold by the county tax collector, and said marshal [shall] make out certificates of sale, and must make, execute and deliver marshal's deeds for all lots or lands so sold within the same time and in the same manner or [as] is now provided by law when land is sold for delinquent

county taxes, and such certificates and deeds have the same force and effect as those made by the county tax collector in case of sales for delinquent county taxes, and all laws of this Territory applicable to sale of lands for delinquent county taxes, so far as the same are applicable and not in conflict herewith, shall govern in sales of lands for taxes under this section. \* \* \*

**§ 11. Board May Provide for Purchase and Regulation of Cemeteries—Conveyances to Purchaser.**—SEC. 18. The board of trustees have power to purchase, hold and pay for lands, not exceeding bodies of twenty acres, within or outside the limits of such town or village, for a cemetery for burial of the dead, and to survey, map, grade, fence, ornament and otherwise improve such cemetery grounds, and to provide for the expense thereof; to convey cemetery lots by certificates signed by the chairman of the board of trustees and countersigned by the clerk of said board, and such certificate vests in the proprietor [purchaser], his heirs and assigns, a right in fee simple to such lot for the sole purpose of interment. The board may pass rules, regulations and ordinances regulating, protecting and governing said cemetery, the owners of lots therein, and visitors and trespassers thereon. \* \* \*

**§ 12. Corporate Boundaries: How Extended—Regulations and Limitations.**—SEC. 26. That all municipal corporations in this Territory, whether incorporated by this act or by special charter, may extend their boundaries in the following manner: The mayor or chairman of the board of trustees of any such municipal corporation shall present to the tribunal specified in the first section of this act, a petition setting forth specifically the metes and bounds of the land over which it is proposed to extend the boundaries of such corporation, not exceeding one mile on either side of such corporation at any one time, the reason why such extension of boundaries is sought; that such petition had been ordered by the board of trustees or city council of said corporation, and that a majority of the taxable inhabitants of the district included within such proposed extension have petitioned the board of trustees or city council of such corporation to become part thereof, and their petition approved by such board or council; and that notice of the filing of such petition by such mayor or chairman of the board of trustees in such tribunal has been given by publication in some newspaper published and of general circulation in such corporation for the full period of three weeks next preceding the filing of such petition, and if no newspaper is published therein, that such notice has been posted for such period of time in four or more of the most public places in said corporation; and if such judge of the district court to whom such petition is presented shall be satisfied that the statements in such petition are true, the prayer contained in such petition shall be granted and an order made and recorded to that effect, specifying the land or district so added to such corporation, which land or district shall then and there become part of and be included within the limits of such corporation in the same manner and to the same extent as if originally incorporated therein: *Provided, further,* That any such corporation may again and from time to time extend its boundaries in the same manner as herein provided for: *Provided, further,* That it shall not be competent for any such corporation to extend its boundaries so as to include the whole or any part of any other municipal corporation in this Territory, now or hereafter organized under this act or under any special charter: *Provided,* That no such municipal corporation shall extend its boundaries so as to include more than twenty acres of land belonging to any one person, and not platted into lots, without the written consent of the owner of such land: *Provided,* That any municipal corporation now existing under any special charter may incorporate under this act in like manner as if such special charter did not exist; but in such case the petition provided for in section one of this act shall, in addition to the matters authorized

**§ 6. General Powers of Board.**—SEC. 13. The board of trustees have power to make any and all improvements of a general nature in a town or village, and for the purpose of paying for the same may borrow money, on such terms as the board of trustees may prescribe, subject, however, to the limitations and restrictions in this act; and for money so borrowed may issue the bonds of the town or village, due in not more than twenty years from date of their issue, with interest thereon at a rate not exceeding ten per cent. per annum, with interest coupons thereto attached, payable annually or semi-annually, and may levy and collect taxes upon all the taxable property in the town or village, in addition to other taxes, to pay such bonds at their maturity and the interest coupons as they respectfully [ respectively ] become due, which taxes must be paid in cash only.

**§ 7. General Taxes: What Taxable—How Taxed.**—SEC. 14. The board of trustees have power to levy and collect taxes for general revenue purposes, not to exceed ten mills on the dollar in any one year, on all property within the limits of such incorporated towns or villages, taxable according to the laws of the Territory of Washington, the valuation of such property to be taken from the books or assessment rolls of the county assessor of the county in which such town or village is situated for the last preceding assessment.

**§ 8. Assessment: Duty of Assessor.**—SEC. 15. The assessor appointed by the board of trustees of such town or village must make a fair and full assessment of all the real and personal and other property within the limits of such town or village subject to taxation under the laws of this Territory, and he must deliver the same to the board of trustees, and the clerk of said board of trustees must, under the direction of said board of trustees, prepare and deliver to the treasurer of such town or village a duplicate of said tax list, keeping in his office the original list, returned by the assessor as aforesaid, and he may receive therefor such compensation as the board of trustees may prescribe: *Provided*, That the board of trustees shall be a board of equalization, and shall have power to equalize the assessment so made at any regular meeting after such assessment list is returned and after having given at least five days public notice of such purpose and meeting in such manner as the board of trustees shall by ordinance prescribe, and the copy of the tax list delivered by the clerk to the treasurer as aforesaid, shall be a copy of the list as equalized by the board of trustees.

**§ 9. Collection of Taxes: Notice of.**—SEC. 16. The treasurer of such town or village receiving such duplicate tax list, within ten days thereafter must give notice that the said tax list is in his hands for the collection of taxes; that the taxes, if not paid within three months from the date of such notice, will be delinquent, and subject to all the forfeiture and penalties attaching to delinquent taxes under the general laws of this Territory; such notice must be given by publication once in a newspaper published in the town or village, or in case no newspaper is published therein, then by printed or written notices posted in four or more public places within the limits of said town or village.

**§ 10. Delinquent Taxes: How Collected.**—SEC. 17. Whenever any of said taxes become delinquent as aforesaid, it is the duty of the treasurer of said town or village to deliver to the marshal of any such town or village a certified list of the delinquent taxes due said town or village, as well for previous years also, and the lots and parcels of land upon which such delinquent taxes are due must be advertised and sold by such marshal for the same time, in the same manner and with like effect as lands or lots are sold by the county tax collector, and said marshal [ shall ] make out certificates of sale, and must make, execute and deliver marshal's deeds for all lots or lands so sold within the same time and in the same manner or [as] is now provided by law when land is sold for delinquent



county taxes, and such certificates and deeds have the same force and effect as those made by the county tax collector in case of sales for delinquent county taxes, and all laws of this Territory applicable to sale of lands for delinquent county taxes, so far as the same are applicable and not in conflict herewith, shall govern in sales of lands for taxes under this section. \* \* \*

**§ 11. Board May Provide for Purchase and Regulation of Cemeteries—Conveyances to Purchaser.**—SEC. 18. The board of trustees have power to purchase, hold and pay for lands, not exceeding bodies of twenty acres, within or outside the limits of such town or village, for a cemetery for burial of the dead, and to survey, map, grade, fence, ornament and otherwise improve such cemetery grounds, and to provide for the expense thereof; to convey cemetery lots by certificates signed by the chairman of the board of trustees and countersigned by the clerk of said board, and such certificate vests in the proprietor [purchaser], his heirs and assigns, a right in fee simple to such lot for the sole purpose of interment. The board may pass rules, regulations and ordinances regulating, protecting and governing said cemetery, the owners of lots therein, and visitors and trespassers thereon. \* \* \*

**§ 12. Corporate Boundaries: How Extended—Regulations and Limitations.**—SEC. 26. That all municipal corporations in this Territory, whether incorporated by this act or by special charter, may extend their boundaries in the following manner: The mayor or chairman of the board of trustees of any such municipal corporation shall present to the tribunal specified in the first section of this act, a petition setting forth specifically the metes and bounds of the land over which it is proposed to extend the boundaries of such corporation, not exceeding one mile on either side of such corporation at any one time, the reason why such extension of boundaries is sought; that such petition had been ordered by the board of trustees or city council of said corporation, and that a majority of the taxable inhabitants of the district included within such proposed extension have petitioned the board of trustees or city council of such corporation to become part thereof, and their petition approved by such board or council; and that notice of the filing of such petition by such mayor or chairman of the board of trustees in such tribunal has been given by publication in some newspaper published and of general circulation in such corporation for the full period of three weeks next preceding the filing of such petition, and if no newspaper is published therein, that such notice has been posted for such period of time in four or more of the most public places in said corporation; and if such judge of the district court to whom such petition is presented shall be satisfied that the statements in such petition are true, the prayer contained in such petition shall be granted and an order made and recorded to that effect, specifying the land or district so added to such corporation, which land or district shall then and there become part of and be included within the limits of such corporation in the same manner and to the same extent as if originally incorporated therein: *Provided, further,* That any such corporation may again and from time to time extend its boundaries in the same manner as herein provided for: *Provided, further,* That it shall not be competent for any such corporation to extend its boundaries so as to include the whole or any part of any other municipal corporation in this Territory, now or hereafter organized under this act or under any special charter: *Provided,* That no such municipal corporation shall extend its boundaries so as to include more than twenty acres of land belonging to any one person, and not platted into lots, without the written consent of the owner of such land: *Provided,* That any municipal corporation now existing under any special charter may incorporate under this act in like manner as if such special charter did not exist; but in such case the petition provided for in section one of this act shall, in addition to the matters authorized

therein required, state the fact of such incorporation under special charter, and such petition shall be deemed a surrender of such special charter, to take effect when organization is complete under this act: *Provided, further*, That the corporate authorities of such municipal corporation shall, before such petition is filed, cause an election to be held in such corporation at which shall be submitted to the qualified electors thereof the question whether or not such special charter shall be surrendered and the corporation organized under this act, and unless a majority of such voters so vote, such special charter shall not be surrendered nor the corporation organized under this act, and the fact of such election and majority vote, as aforesaid, must be alleged in the petition and proved on the hearing thereof, which election shall be held, noticed and conducted in such manner as such municipal corporation shall by ordinance provide. *And provided, further*, That when such municipal corporation is organized under this act, it shall succeed to all the property, rights, privilege, franchises and easements belonging to the former municipal corporation dissolved by such act, and of which it shall take the place

§ 13. **Saving Clause.**—SEC. 27. No corporation is dissolved by this act, and all towns and villages heretofore incorporated under the laws of this Territory and not heretofore dissolved by law may continue under their respective charters.

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## CHAPTER II.—PRIVATE CORPORATIONS—FORMATION OF, GENERAL POWERS, ETC.†

### No. 443.—AN ACT REGULATING BURYING GROUNDS, AND PLACES OF SEPULTURE <sup>1</sup>

§ 1. **Incorporation for: Powers of, etc.**—SECTION 1 *Be it enacted, etc.*, That any number of individuals, in any portion of this Territory, may associate for the purpose of procuring and establishing a burying ground or place of sepulture, and, being so associated, they shall, on complying with the provisions of this section, be a body politic and corporate; may choose a president and other officers, may enact by-laws for regulating the affairs of such corporation not inconsistent with the laws of this Territory, and compel the observance thereof by suitable penalties; may sue and be sued, and do all acts necessary and proper for the well ordering of the affairs of such corporation *Provided*, That, before any such association shall be entitled to the privileges granted in this section, they shall lodge with the secretary of this Territory a copy of their articles of association, and shall also cause the same to be recorded in the records of the county where such burying ground is situated.

§ 2. **Exemption From Execution, Taxation, etc.**—SEC. 2. Whenever any part of such burying ground shall have been designated and appropriated by the proprietors thereof as the burying place of any particular person or family, the same shall not be liable to be taken or disposed of by any warrant or execution, for any tax or debt whatever, nor shall the same be liable to be sold to satisfy the demands of creditors whenever the estate of such owner shall be insolvent.

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-57, p. 28.)

† For special incorporation acts of "Private Corporations" see Division II of this subject—"Special Laws."

§ 3. **Hearse, etc.: Taxation for.**—SEC. 3. Each and every county, town or city shall have power to provide a hearse and pall for burial of the dead, and to procure and hold lands for burying grounds, and to make regulations and fence the same, and to preserve the monuments erected therein, and to levy and collect the necessary taxes for that purpose, in the same manner as other taxes are levied and collected.

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**No. 444.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS FOR CERTAIN PURPOSES.<sup>1</sup>**

§ 1. **For What Purposes May Incorporate.**—SECTION 1. *Be it enacted, etc.,* That corporations for manufacturing, mining, milling, wharfing and docking, mechanical, chemical, mercantile, building and farming purposes, or for the purpose of engaging in any other species of trade, may be formed according to the provisions of this act, such corporations, and the members thereof, being subject to all the conditions and liabilities herein imposed, and none other.

§ 2. **Articles: Substance of.**—SEC. 2. Any three or more persons who may desire to form a company for any one or more of the purposes specified in the preceding section, may make, sign and acknowledge, before some person competent to take the acknowledgment of deeds, and file and have recorded in a book provided for that purpose, in the office of the auditor in the county in which the principal place of business of the company is intended to be located, and a certified copy thereof, under the hand of the auditor and the seal of the county, in the office of the secretary of the Territory, a certificate in writing, in which shall be stated the corporate name of the company, the object for which the same shall be formed, the amount of its capital stock, the time of its existence, not to exceed fifty years, the number of shares of which the capital stock shall consist, the number of trustees and their names, who shall manage the concerns of the company for such length of time (not less than two nor more than six months), as may be designated in such certificate, and the name of the city, town or locality and county in which the principal place of business of the company is to be located.

\* \* \* \* \*

§ 3. **Corporate Powers.**—SEC. 4. When the certificate shall have been filed, the persons who shall have signed and acknowledged the same and their successors shall be a body corporate and politic, in fact and in name, by the name stated in their certificate and by their corporate name have succession, for the period limited, and power— (1) To sue and be sued in any court having competent jurisdiction. (2) To make and use a common seal and to alter the same at pleasure. (3) To purchase, hold, sell and convey such real and personal estate as the purposes of the corporation shall require. (4) To appoint such officers, agents and servants as the business of the corporation shall require; to define their powers, prescribe their duties and fix their compensation. \* \* \* (6) To make by-laws not inconsistent with the organic act of this Territory and the laws of the congress of the United States and of this Territory. (7) The management of its property, the regulation of its affairs, the transfer of its stock, and for carrying on all kinds of business within the objects and purposes of the company, as expressed in the articles of incorporation.

§ 4. **Board of Trustees.**—SEC. 5. The corporate powers of the corporation shall be exercised by a board of not less than three trustees, who shall be stockholders in the company, and a majority of them citizens of the United States and residents of this Territory, who shall, before

<sup>1</sup>Approved Jan. 27, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 55.)

entering upon the duties of their office, respectively take and subscribe to an oath as prescribed by the laws of this Territory. \* \* \*

§ 5. **Quorum.**—SEC. 7. A majority of the whole number of trustees shall form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

§ 6. **Dissolution—Powers of Trustees.**—SEC. 23. Upon the dissolution of any corporation formed under this act, the trustees at the time of the dissolution shall be trustees of the creditors and stockholders of the corporation dissolved, and shall have full power and authority to sue for and recover the debts and property of the corporation, by the name of the trustees of such corporation, collect and pay the outstanding debts, settle all its affairs, and divide among the stockholders the money and other property that shall remain after the payment of the debts and necessary expenses.

§ 7. **Manner of Dissolution.**—SEC. 24. Any corporation formed under this act may dissolve and disincorporate itself by presenting to the district judge of the judicial district in which the office of the company is located a petition to that effect, accompanied by a certificate of its proper officers, and setting forth that at a meeting of the stockholders called for the purpose, it was decided by a vote of two-thirds of all the stockholders to disincorporate and dissolve the corporation. Notice of the application shall then be given by the clerk, which notice shall set forth the nature of the application, and shall specify the time and place at which it is to be heard, and shall be published in some newspaper in the county once a week for eight weeks; or if no newspaper is published in the county, by publication in the newspaper nearest thereto in the Territory. At the time and place appointed, or at any other time to which it may be postponed by the judge, he shall proceed to consider the application, and if satisfied that the corporation has taken the necessary preliminary steps and obtained the necessary vote to dissolve itself, and that all claims against the corporation are discharged, he shall enter an order declaring it dissolved.

§ 8. **Certain Corporations Excluded From Provisions of This Act.**—SEC. 27. Nothing in this act shall be so construed as to include within its provisions any telegraph, railroad, steamboat, portage, express or insurance company, or companies engaged in the transportation of freight or passengers within the present boundaries of Clarke and Klickitat counties, or within the boundaries of the late county of Skamania.

**No. 445.—AN ACT FOR THE INCORPORATION OF COLLEGES, SEMINARIES, CHURCHES, LYCEUMS, LIBRARIES, AND OTHER SOCIETIES, FOR BENEVOLENT, TEMPERANCE, CHARITABLE AND SCIENTIFIC PURPOSES.**

§ 1. **Articles: Substance of.**—SECTION 1. *Be it enacted, etc.,* That any two or more persons desirous of forming a corporation for a college, seminary, church, library, or any benevolent, temperance, charitable or scientific society, shall adopt articles certifying—(1) The names of the persons concerned, and their having associated to form a body politic; (2) their corporate name and location and chief place of business; (3) if a joint stock company, the amount of capital stock and the amount constituting a share; if not a joint stock company, then the terms of ad-

<sup>1</sup>Approved Jan. 22, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 67.) In effect from date.

mission to membership; (4) a full and specific statement of their object and purpose; (5) what officers the society and company will have; by what officers business will be conducted, and when they are to be elected, or if appointed, when and by whom such appointment is to be made; and also the number of trustees to manage the affairs of said society, and the names of the trustees for the first year of its existence; which articles shall be subscribed and sworn to by them, or by their president or secretary and a majority of such associates, before some officer authorized to administer oaths, and filed and recorded in the office of the auditor of the county where such corporation or its chief place of business shall exist, and a copy thereof, certified to by the auditor, shall be filed in the office of the secretary of the Territory.

§ 2. **Corporate Powers.**—SEC. 2. When such articles shall have been filed as aforesaid, the persons who shall have signed and verified the same, and their successors, shall be a body politic and corporate, with perpetual succession. They shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered, in all courts of this Territory. They may have a common seal, alter and change the same at pleasure; acquire and sell property, personal and real, for the purpose of carrying out the specified objects of the corporation, and no other; make by-laws, rules and regulations as they may deem proper and best for the welfare and the good order of the corporation: *Provided*, That such by-laws, rules and regulations be not contrary to the constitution and laws of the United States and the existing laws of this Territory.

§ 3. **Manner of Dissolution.**—SEC. 4. Any corporation desiring its dissolution may, by a three-fourths vote of all its members at some regular meeting, execute a surrender of all its corporate powers, and upon the filing of duplicate surrenders with the said auditor and territorial secretary, the said corporation shall be dissolved to all intents and purposes.

§ 4. **This Act to be Strictly Construed.**—SEC. 5. This act shall not be so construed as to extend to any association of persons who shall not exclusively have for their object and purpose the formation of societies and corporations mentioned in the first section of this act.

**No. 446.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS FOR CERTAIN PURPOSES,"**  
APPROVED JANUARY 27, 1866.<sup>1</sup>

§ 1. **Purposes Enlarged—Number of Incorporators Decreased.**—SECTION 1. *Be it enacted, etc.*, That the act to which this act is amendatory<sup>2</sup> be and the same is hereby amended so that the words "or business" be inserted immediately after the word "trade" in the first section of said act, and that the word "three" be stricken out of section two in first line, and the word "two" inserted in lieu thereof. Also in section five, second line, strike out the word "three" and insert in lieu thereof the word "two."

§ 2. **All Prior Incorporations Declared Valid.**—SEC. 3. Strike out all of section 27,<sup>3</sup> and insert in lieu thereof the following: Section 27 of the act to which this is amendatory will then read: "Sec. 27. That all persons

<sup>1</sup> Approved Jan. 29, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 137.) In effect from date.

<sup>2</sup> See No. 444, §§ 1, 2, 4, *supra*.

<sup>3</sup> See No. 441, § 8, *supra*.

who have organized themselves as a corporation under the provisions of the act to which this is amendatory, for purposes other than those enumerated in section first of said act, are hereby declared incorporate bodies, with all the powers the same as they would have been had they been incorporated for the purposes set forth in section first of said act."

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**No. 447.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 310, 341, chap. 2, "Incorporation of Colleges," etc.) This No. is *verbatim* as No. 445, *supra*, except § 4 of said No. is omitted.

**No. 448.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.<sup>1</sup>**

CHAPTER I.

§ 1. **For What Purposes May Incorporate.**—SECTION 1. *Be it enacted, etc.*, That corporations for manufacturing, mining, milling, wharfing and docking, mechanical, mercantile, building and farming purposes, or for the purpose of engaging<sup>2</sup> in any other species of trade or business, may be formed according to the provisions of this act; such corporations, and the members thereof, being subject to all the conditions and liabilities herein imposed, and to none other.

§ 2. **Articles: Substance of.**—SEC. 2. Any two or more persons who may desire to form a company for any one or more of the purposes specified in the preceding section, shall make and subscribe written articles of incorporation in triplicate, and acknowledge the same before any officer authorized to take the acknowledgment of deeds, and file one of such articles in the office of the secretary of the Territory, and another in the office of the county auditor of the county in which the principal place of business of the company is intended to be located, and retain the third in the possession of the corporation. Said articles shall state the corporate name of the company, the object for which the same shall be formed, the amount of its capital stock, the time of its existence, not to exceed fifty years, the number of shares of which the capital stock shall consist, the number of trustees and their names, who shall manage the concerns of the company for such length of time (not less than two or more than six months), as may be designated in such certificate, and the name of the city, town or locality and county in which the principal place of business of the company is to be located.<sup>4</sup>

\* \* \* \* \*

§ 3. **Corporate Powers.**—SEC. 4. When the certificate shall have been filed, the persons who shall have signed and acknowledged the same, and their successors, shall be a body corporate and politic in fact and in name, by the name stated in their certificate, and by their corporate name have succession for the period limited, and power<sup>5</sup>—(1) To sue and be sued in any court having competent jurisdiction. (2) To make and use a common seal and to alter the same at pleasure. (3) To purchase, hold,\* sell and convey such real and personal estate as the purposes of the corporation may require. (4) To appoint such officers, agents and servants as the business of the corporation shall require; to define their powers, prescribe their duties and fix their compensation. \* \* \* (6) To make by-laws not inconsistent with the organic act of this Territory and the laws of the congress of the United States and of this Territory. (7) The management of its property, the regulation of its affairs, the trans-

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 330.)

<sup>2</sup> See Nos. 449, 453, *infra*.

<sup>4</sup> See No. 453, *infra*.



fer of its stock, and for carrying on all kinds of business within the objects and purposes of the company, as expressed in the articles of incorporation.

§ 4. **Board of Trustees.**—SEC. 5. The corporate powers of the corporation shall be exercised by a board of not less than two trustees, who shall be stockholders in the company, and a majority of them citizens of the United States and residents of this Territory, who shall, before entering upon the duties of their office, respectively take and subscribe to an oath as prescribed by the laws of this Territory, and who shall, after the expiration of the term of the trustees first elected, be actually† elected by the stockholders at such time and place within the Territory, and upon such notice and in such manner as shall be directed by the by-laws of the company; \* \* \*

§ 5. **Effect of Failure to Elect Board on Day Designated.**—SEC. 6. If it shall happen at any time that an election of trustees shall not be made on the day designated by the by-laws of the company, the corporation shall not for that reason be dissolved; but it shall be lawful on any other day to hold an election for trustees, in such manner as shall be provided for in the by-laws of the company, and all acts of the trustees shall be valid and binding upon the company until their successors are elected.

§ 6. **Quorum.**—SEC. 7. A majority of the whole number of trustees shall form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

\* \* \* \* \*  
§ 7. **Dissolution: Power of Trustees.**—SEC. 23. Upon the dissolution of any corporation formed under the provisions of this act, the trustees at the time of the dissolution shall be trustees of the creditors and stockholders of the corporation dissolved, and shall have full power and authority to sue for and recover the debts and property of the corporation by the name of the trustees of such corporation, collect and pay the outstanding debts, settle all its affairs, and divide among the stockholders the money and other property that shall remain after the payment of the debts and necessary expenses.

§ 8. **Manner of Dissolution.**—SEC. 24. Any corporation formed under this act may dissolve and disincorporate itself by presenting to the district judge of the judicial district in which the office of the company is located a petition to that effect, accompanied by a certificate of its proper officers, and setting forth that at a meeting of the stockholders called for the purpose it was decided by a vote of two-thirds of all stockholders to disincorporate and dissolve the corporation. Notice of the application shall then be given by the clerk, which notice shall set forth the nature of the application and shall specify the time and place at which it is to be heard, and shall be published in some newspaper of the county once a week for eight weeks, or if no newspaper is published in the county, by publication in the newspaper nearest thereto in the Territory. At the time and place appointed, or at any other time to which it may be postponed by the judge, he shall proceed to consider the application, and if satisfied that the corporation has taken the necessary preliminary steps and obtained the necessary vote to dissolve itself, and that all claims against the corporation are discharged, he shall enter an order declaring it dissolved.

\* \* \* \* \*  
§ 9. **All Prior Corporations Declared Valid.**—SEC. 27. All persons who have organized themselves as a corporation under the provisions of this act for purposes other than those enumerated in section first\* are

\* See No. 453, *infra*.

† "Annually."

hereby declared incorporate bodies, with all the powers the same as they would enjoy had they been incorporated for the purposes set forth in said section first.<sup>6</sup>

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§ 10. **Provisions Extended to Water Companies.**—SEC. 29. The provisions of this act shall extend to and apply to all associations already formed under any law of this Territory, or hereafter to be formed under the provisions of this act, for the purpose of supplying any cities or towns in this Territory, or the inhabitants thereof, with pure and fresh water.

§ 11. **Water Companies May appropriate Private Property.**—SEC. 30. Such water companies incorporated for the purposes specified in the preceding section shall have the right to purchase or take possession of and use and hold such lands and waters for the purposes of the company lying without the limits of the city or town intended to be supplied with water upon making compensation therefor. The mode of proceeding to obtain possession of such lands for the use of the company, right-of-way for laying pipes and aqueducts for the use of the company when the parties cannot agree shall, so far as the same be applicable, be as prescribed in [chapters three and four of this act].<sup>7</sup>

§ 12. **Must Obtain Franchises From Municipal Corporation.**—SEC. 31. Water companies hereafter incorporating under the provisions of this act must first obtain from the corporate authorities of a city or town intended to be supplied with water, the right or privilege so to do; but nothing herein contained shall affect parties now acting under legislative grants or franchises.

\* \* \* \* \*

<sup>7</sup> See No. 453, *infra*. The [ ] shown here do not appear in this act. They are inserted for convenient reference.

#### **No. 449.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.<sup>1</sup>**

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<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 398, chap. 1, secs. 1, 2, 4, 5, 6, 7, 21, 22, 23, 27, 28, 29.) This No. is *verbatim* as No. 448, *supra*, except § 1 of said No. at 2 instead of "of engaging," etc., read "building, equipping and running railroads, or engaging," and § 3 at 8 after "hold" read "mortgage." See also chap. 2 of this act, relating to "Incorporation of Colleges," etc., the same being *verbatim* as No. 445, *supra*, except § 4 of said No. is omitted. All acts and parts of acts heretofore passed on this subject are repealed. In effect from date.

#### **No. 450.—AN ACT TO ENABLE GRANGES OF THE PATRONS OF HUSBANDRY TO INCORPORATE.<sup>1</sup>**

§ 1. **Certificate of Incorporation: Substance of.**—SECTION 1. *Be it enacted, etc.,* That any grange of the Patrons of Husbandry, desiring hereafter to incorporate, may incorporate and become bodies politic in this Territory by filing in the office of the treasury [secretary] of the Territory of Washington, and in the office of the county auditor of the county wherein such grange holds its meetings of business, a certificate or article embodying—(1) The name of such grange and the place of holding its meetings. (2) What elective officers the said grange will have; when such officers shall be elected; how, and by whom, the business of the grange shall be conducted or managed, and what officers shall join in the execution of any contract by such grange to give force and effect in accordance with the usages of the order of the Patrons of Husbandry; such articles shall be subscribed by the master of such grange, attested by the secretary, with the seal of the grange. (3) A copy of the by-laws of such grange shall also be filed in said office of the secretary of the Territory

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 97.)

and the county auditor of the proper county. (4) The names of all such officers at the time of filing the application, and the time for which they may be respectively elected. When such articles shall be filed, such grange shall be a body politic and corporate with all the incidents of a corporation, subject nevertheless to the laws and parts of laws now in force or hereafter to be passed regulating corporations.

**§ 2. Corporate Powers.**—SEC. 2. Said grange may engage in any industrial pursuit, manufacturing, mining, milling, wharfing, docking, commercial, mechanical, mercantile, building, farming, building, equipping or running railroads, or generally engage in any species of trade or industry; loan money on security, purchase and sell on real estate; but when desiring to engage in either or any of the above pursuits or industries, said grange shall be subject to all the conditions and liabilities imposed by the provisions of the general corporation laws, and in addition to the conditions to be performed as recited in section one of this act, shall file additional articles with said secretary of the Territory, and the county auditor of the proper county, stating the object, business or industry proposed to be pursued or engaged in; the amount of capital stock, the time of its existence, not to exceed fifty years; the number of shares of which the capital stock shall consist, price per share and the names of officers necessary to manage said business, and the places where said officers shall pursue the same.

**§ 3. Shall be Domestic Corporation.**—SEC. 3. As a business corporation, said grange, after having complied with section two of this act, shall be to all intents and purposes a domestic corporation, with all the rights, privileges and immunities allowed, and all the liabilities imposed by chapter one of the act entitled "An act to provide for the formation of corporations," approved November 13, 1873.<sup>2</sup>

<sup>2</sup> See No. 449, *supra*.

#### NO. 451.—AN ACT TO PROVIDE FOR THE INCORPORATION OF WATER FLUME COMPANIES.<sup>1</sup>

**§ 1. How Formed—Powers, etc.**—SECTION 1. *Be it enacted, etc.,* That corporations for the building, equipping and managing water flumes for the transportation of wood and lumber may be formed according to the provisions of an act entitled "An act to provide for the formation of corporations," passed November thirteenth, one thousand eight hundred and seventy-three,<sup>2</sup> and such corporations and the members thereof shall be subject to the conditions and liabilities therein imposed.

**§ 2. May Appropriate Lands.**—SEC. 2. That said corporations may appropriate lands for the construction of said flumes and the right-of-way therefor, according to the provisions of chapter three<sup>3</sup> of the act of which this act is amendatory, and with all the rights and liabilities therein granted or imposed.

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<sup>1</sup> Approved Oct. 25, 1877. (See Sixth Bien. Sess. 1877, p. 326.) In effect from date.

<sup>2</sup> See No. 449, *supra*.

<sup>3</sup> See No. 458, *infra*.

#### NO. 452.—AN ACT TO PROVIDE FOR THE RECORDING OF ARTICLES OF INCORPORATION.<sup>1</sup>

**SECTION 1.** *Be it enacted, etc.,* That every article of incorporation and every certificate of the appointment of an agent of any corporation hereafter filed in the office of the secretary of the Territory shall be recorded by said secretary.

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<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Bien. Sess. 1879, p. 155.) In effect from date.

**No. 453.—CHAPTER CLXXXV—FORMATION OF CORPORATIONS.<sup>1</sup>**

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<sup>1</sup> Approved Dec. 7, 1881. (See Code 1881, p. 416, secs. 2421, 2422, 2426, 2427, 2441, 2442, 2445, 2447 to 2449, inclusive.) This No. is *verbatim* as No. 448, *supra*, except § 1 of said No. at 2 instead of that part included in [ ] read "or for the building, equipping and managing water flumes, for the transportation of wood and lumber, or for the purpose of building, equipping and running railroads," and § 2 at 4 after "located" read "amendments may be made to the articles of incorporation by supplemental articles executed and filed the same as the original articles," and § 8 at 5 instead of "and power" read "and shall have power," and at 5 after "hold" read "mortgage," and § 9 at 6 instead of "section first" read "section 2421" (see § 1, No. 448), and § 11 at 7 instead of part inclosed in [ ] read "chapters 182 and 183" (see No. 460 and 457).

**No. 454.—CHAPTER CLXXXVI—THE INCORPORATION OF COLLEGES, SEMINARIES, CHURCHES, LYCEUMS, LIBRARIES AND OTHER SOCIETIES FOR BENEVOLENT, TEMPERANCE, CHARITABLE AND SCIENTIFIC PURPOSES.<sup>1</sup>**

§ 1. **Articles: Substance of.**—SEC. 2450. Any two or more persons desirous of forming a corporation for a college, seminary, church, library, or benevolent, temperance, charitable, or scientific society, shall adopt articles certifying—(1) The names of the persons concerned, and their having associated to form a body politic. (2) The corporate name and location and chief place of business. (3) If a joint stock company, the amount of capital stock and the amount constituting a share; if not a joint stock company, then the terms of admission to membership. (4) A full and specific statement of their object and purpose. (5) What officers the society and company will have; by what officers business will be conducted, and when they are to be elected, or if appointed, when and by whom such appointments are to be made; and also the number of trustees to manage the affairs of said society, and the names of the trustees for the first year of its existence; which articles shall be subscribed and sworn to by them, or by their president or secretary, and a majority of such associates, before some officer authorized to administer oaths, and filed and recorded in the office of the auditor of the county where such corporation or its chief place of business shall exist, and a copy thereof certified to by the auditor shall be filed in the office of the secretary of the Territory.

§ 2. **Corporate Powers.**—SEC. 2451. When such articles shall have been filed as aforesaid, the persons who shall have signed and verified the same, and their successors, shall be a body politic and corporate, with perpetual succession; they shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered, in all the courts of the Territory; they may have a common seal, alter and change the same at pleasure; acquire, mortgage and sell property, personal and real, for the purpose of carrying out the objects of the corporation, and make by-laws, rules and regulations as they deem proper and best for the welfare and the good order of the corporation: *Provided*, That such by-laws, rules and regulations be not contrary to the constitution and laws of the United States and the existing laws of the Territory.

§ 3. **Masons, Odd Fellows, Good Templars, etc., May Incorporate—How.**—SEC. 2452. Any lodge of Free and Accepted Masons, Odd Fellows, Good Templars or other charitable or beneficial society desiring hereafter to incorporate, may avail themselves of the provisions of this chapter by filing in the office of the secretary of the Territory of Washington, and in the office of the county auditor of the county wherein such lodge or other society holds its meetings of business or communications, a certificate or

<sup>1</sup> Approved Dec. 7, 1881. (See Code 1881, p. 423.) For date in effect, repealing clause, etc., see Nos. 338, 339, 340.

article embodying—(1) The name of such lodge or other society and place of holding its meetings. (2) What elective officers the lodge or society will have and when such officers shall be elected, how and by whom the business of the lodge or society shall be conducted or managed, and what officers shall join in the execution of any contract by such to give it force and effect in accordance with the usages of such lodge or society; such articles shall be subscribed by the master or other chief officer of said lodge or society, with the title accorded to him by usage of such lodge or society, attested by the secretary with the seal of such lodge or society. (3) A copy of the by-laws of such lodge or society shall also be filed in the said office of the secretary of the Territory and county auditor of the proper county. (4) The names of all such officers at the time of filing the application and the time for which they may be respectively elected. When such articles shall be filed such lodge or society shall be a body politic and corporate, with all the incidents of a corporation, subject, nevertheless, to the laws and parts of laws now in force or hereafter to be passed regulating corporations.

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§ 4. **Manner of Dissolution.**—SEC. 2454. Any corporation desiring its dissolution may, by a three-fourths vote of all its members at some regular meeting, execute a surrender of all its corporate powers, and upon the filing of duplicate surrenders with the said auditor and territorial secretary, the said corporation shall be dissolved to all intents and purposes.

**No. 455.—AN ACT TO AMEND SECTION 2451 OF CHAPTER 186 OF THE CODE OF WASHINGTON TERRITORY, RELATING TO CORPORATIONS.<sup>1</sup>**

§ 1. **Corporate Powers.**—*Be it enacted, etc.* SECTION 1. That section 2451<sup>1</sup> of chapter 186 of the Code of Washington Territory be and the same is hereby amended to read as follows: Section 2451. When such articles shall have been filed as aforesaid, the persons who shall have signed and verified the same, and their successors, shall be a body politic and corporate, with perpetual succession; they shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered in all of the courts of the Territory; they may have a common seal, alter and change the same at pleasure; acquire, mortgage and sell property, personal and real, for the purpose of carrying out the objects of the corporation, and make by-laws, rules and regulations as they may deem proper and best for the welfare and good order of the corporation; and may amend the articles of incorporation by supplemental articles, executed and filed the same as the original articles: *Provided*, That such by-laws, rules and regulations be not contrary to the constitution and laws of the United States and the existing laws of the Territory.

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<sup>1</sup> Approved Jan. 19, 1886. (See Tenth Bien. Sess. 1885-86, p. 86.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 454, § 2, *supra*.

**No. 456.—AN ACT TO AMEND SECTIONS 2421, 2430 AND 2434<sup>1</sup> OF CHAPTER CLXXXV OF THE CODE OF WASHINGTON TERRITORY RELATING TO CORPORATIONS.<sup>2</sup>**

§ 1. **For What Purposes May Incorporate.**—*Be it enacted, etc.* SECTION 1. That section 2421,<sup>2</sup> \* \* \* of chapter CLXXXV of the Code

<sup>1</sup> Sections 2430 and 2434 do not appear in this work, relating only to the manner of subscription, etc., to stock.

<sup>2</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 84.) In effect from date.

<sup>3</sup> See Nos. 453 and 448, § 1, *supra*.

of Washington Territory relating to corporations be and the same are hereby amended to read as follows, to wit: Section 2421 is amended to read as follows: Corporations for manufacturing, mining, milling, wharfing and docking, mechanical, banking, mercantile, improvement and building purposes, or for the building, equipping and managing water flumes for the transportation of wood and lumber, or for the purpose of building, equipping and running railroads, or constructing canals, or engaging in any other species of trade or business, may be formed according to the provisions of this chapter; such corporation and the members thereof being subject to all the conditions and liabilities herein imposed, and to none others: *Provided*, That no such corporation shall commence business or institute proceedings to condemn land for corporate purposes until the whole amount of its capital stock has been subscribed.

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## 2. OF APPROPRIATION OF PRIVATE PROPERTY.

### No. 457.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.<sup>1</sup>

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#### CHAPTER III.

§ 1. **What, Corporations May.**—SECTION 1. A corporation organized for the construction of any railroad, macadamized road, plank road, clay road, canal or bridge, shall have a right to enter upon any land between the termini thereof for the purpose of examining, locating and surveying the line of such road or canal, or the site of such bridge, doing no unnecessary damage thereby.

§ 2. **What Amount, and for What Purpose, May.**—SEC. 2. Such corporation may appropriate so much of said land as may be necessary for the line of such road or canal, or the site of such bridge, not exceeding sixty feet in width, besides a sufficient quantity thereof for toll houses, work shops, materials for construction, timber excepted, a right-of-way over adjacent lands to enable such corporation to construct and repair its road, canal or bridge, and to make proper drains; and in case of a railroad, to appropriate sufficient quantity of such lands, in addition to that before specified in this section, for the necessary side tracks, depots and water stations, and the right to conduct water thereto by aqueduct; but no such appropriation of private property shall be made until compensation therefor be made to the owner thereof, irrespective of any increased value thereof by reason of the proposed improvement by such corporation, in the manner hereinafter provided.

§ 3. **Grade, Location, etc., of Road, etc., May be Changed.**—SEC. 3. Any corporation may change the grade or location of its road or canal, not departing from the general route specified in the articles of incorporation, for the purpose of avoiding annoyances to public travel or dangerous or deficient curves or grades, or unsafe or unsubstantial grounds or foundation, or for other like reasonable causes, and for the accomplishment of such change shall have the same right to enter upon, examine, survey and appropriate the necessary lands and materials as in the original location and construction of such road or canal.

§ 4. **Public Road, Street, etc., May be: How.**—SEC. 4. When it shall be necessary or convenient in the location of any road herein mentioned to appropriate any part of any public road, street or alley, or public grounds, the county court of the county wherein such road, street, alley or public grounds may be, unless the same be within the corporate limits of a municipal corporation, is authorized to agree with the corporation constructing the road upon the extent, terms and conditions upon

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, pp. 330, 343, 348.)



which the same may be appropriated, or used and occupied by such corporation, and if such parties shall be unable to agree thereon such corporation may appropriate so much thereof as may be necessary and convenient in the location and construction of said road.

**§ 5. If Within Limits of Town, etc., Consent Necessary: Exception.**—SEC. 5. Whenever a private corporation is authorized to appropriate any public highway or grounds, as mentioned in the last section, if the same be within the limits of any town, whether incorporated or not, such corporation shall locate their road upon such particular road, street or alley or public grounds within such town as the local authorities mentioned in the last section, and having charge thereof, shall designate; but if such local authorities shall fail or refuse to make such designation within a reasonable time, when requested, such corporation may make such appropriation without reference thereto.

**§ 6. Obstructions, Tolls, etc.**—SEC. 6. Whenever such public highway or grounds is taken by a private corporation by agreement with the local authorities mentioned in section four, such corporation may place such gates thereon and charge and receive such tolls thereat as such local authorities may consent to by such agreement, and none other; but when the same is appropriated without such agreement, as provided in section five, such corporation shall not place any gate or other obstruction upon the public highway or grounds appropriated, nor charge or receive any toll from any person passing over or along the same.

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#### CHAPTER IV.

**§ 7. Action for.**—SECTION 1. Whenever any corporation, authorized as in the provisions of this act to appropriate lands or right-of-way, is unable to agree with the owner thereof as to the compensation to be paid therefor, or if such owner be absent from this Territory, such corporation may maintain an action in the district court of the proper county against such owner for the purpose of having such lands appropriated to its use, and for determining the compensation to be paid to such owner therefor.

**§ 8. How Action Commenced and Prosecuted.**—SEC. 2. Such action shall be commenced and proceeded in to final determination in the same manner as an action at law, except as in this chapter otherwise specially provided.

**§ 9. Against Whom Action Commenced.**—SEC. 3. The action shall be commenced against the person in the actual possession of the land at the time; or if the property be not in the actual possession of any one, then against the person acting as the owner thereof; or if there be no one in the actual possession or acting as owner thereof, then against an owner unknown.

**§ 10. Description of Land—Summons.**—SEC. 4. The complaint shall describe the land sought to be appropriated with convenient certainty. If the defendant, or either of several defendants, is a non-resident of this Territory, or unknown, service of the summons may be made by publication as in ordinary cases.

**§ 11. Owner May be Substituted for Tenant.**—SEC. 5. A defendant in actual possession may, for answer, plead that he is in possession only as the tenant of another, naming him and his place of residence if known, and thereupon the landlord, if he apply therefor, shall be made defendant in place of the tenant, and thereafter the action shall proceed in all cases as if originally commenced against him.

**§ 12. Defense of Defendant.**—SEC. 6. The defendant in his answer may set forth any legal defense to the appropriation of such lands, or any portion thereof; or, omitting such defense, may aver the true value of the

land in question, or the damage resulting from the appropriation thereof, or both.

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§ 13. **Judgment.**—SEC. 8. Upon the payment into the court of the damages assessed by the jury, the court shall give judgment appropriating the lands in question to the corporation, and thereafter such lands are the property of such corporation.

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§ 14. **Waiver of Appeal.**—SEC. 12. If the defendant accept the damages paid to the clerk, he waives his right of appeal. \* \* \*

#### NO. 458.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.<sup>1</sup>

##### CHAPTER I.

§ 1. SECTION 1. *Be it enacted, etc.*

##### CHAPTER III.

§ 2. **What Corporations May appropriate.**—SECTION 1. A corporation organized for the construction of any railroad, macadamized road, plank road, clay road, canal or bridge, shall have a right to enter upon any land between the termini thereof for the purpose of examining, locating and surveying the line of such road or canal, or the site of such bridge, doing no unnecessary damage thereby.

§ 3. **What Amount and for What Purpose May.**—SEC. 2. Such corporation may appropriate so much of said land as may be necessary for the line of such road or canal, or the site of such bridge, not exceeding two hundred feet in width, besides a sufficient quantity thereof for toll houses, work shops, materials for construction, a right-of-way over adjacent lands, to enable such corporation to construct and repair its road, canal, or bridge, and to make proper drains; and in the case of a railroad, to appropriate sufficient quantity of such lands in addition to that before specified in this section for the necessary side tracks, depots, and water stations, and the right to conduct water thereto by aqueduct; compensation therefor to be made to the owner thereof, irrespective of any increased value thereof by reason of the proposed improvement by such corporation in the manner hereinafter provided: *And, provided further,* That if such corporation locate the bed of such railroad or canal upon any portion of the track now occupied by any established territorial or county road, said corporation shall be responsible to the county commissioners of said county or counties in which said territorial or county road so appropriated is located for all expenses incurred by said county or counties in re-locating and opening the portion of said road so appropriated.

§ 4. **Grade, Location, etc., of Road, etc., May be Changed.**—SEC. 3. Any corporation may change the grade or location of its road, or canal, not departing from the general route specified in the articles of incorporation, for the purpose of avoiding annoyances to public travel or dangerous or deficient curves or grades, or unsafe or unsubstantial grounds or foundation, or for other like reasonable causes, and for the accomplishment of such change, shall have the same right to enter upon, examine, survey and appropriate the necessary lands and materials, as in the original location and construction of such road or canal.

<sup>1</sup>Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 398, 411, 417.) In effect from date.

§ 5. **Public Road, Street, etc., May be: How.**—SEC. 4. When it shall be necessary or convenient in the location of any road herein mentioned to appropriate any part of any public road, street or alley or public grounds, the county court of the county wherein such road, street, alley or public grounds may be, unless the same be within the corporate limits of a municipal corporation, is authorized to agree with the corporation constructing the road, upon the extent, terms and conditions upon which the same may be appropriated or used, and occupied by such corporation, and if such parties shall be unable to agree thereon, such corporation may appropriate so much thereof as may be necessary and convenient in the location and construction of said road.

§ 6. **If Within Limits of Town, etc., Consent Necessary: Exception.**—SEC. 5. Whenever a private corporation is authorized to appropriate any public highway or grounds, as mentioned in the last section, if the same be within the limits of any town, whether incorporated or not, such corporation shall not<sup>2</sup> locate their road upon such particular road, street or alley or public grounds within such town as the local authorities mentioned in the last section and having charge thereof shall designate; but if such local authorities shall fail or refuse to make such designation within a reasonable time, when requested, such corporation may make such appropriation without reference thereto.

§ 7. **Obstructions, Tolls, etc.**—SEC. 6. Whenever such public highway or grounds is<sup>2</sup> taken by a private corporation by agreement with the local authorities mentioned in section four, such corporation may place such gates thereon and charge and receive such tolls thereat as such local authorities may consent to by such agreement, and none other; but when the same is appropriated without such agreement, as provided in section five, such corporation shall not place any gate or other obstruction upon the public highway or grounds appropriated, nor charge or receive any toll from any person passing over or along the same.

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#### CHAPTER IV.

§ 8. **Action for—Manner of Proceeding.**—SECTION 1. Whenever any corporation, authorized by the provisions of this act to appropriate lands for the right-of-way, is unable to agree with the owner thereof as to the compensation to be paid therefor, either such corporation or the owner of such land may, by petition, in which the land sought to be appropriated shall be described with reasonable certainty, apply to a justice of the peace in and for the county where said land lies, who shall thereupon summon three disinterested householders of such county to appear before him upon a certain day, not less than five nor more than fifteen days from the date of the filing of such petition, which said summons shall be served upon said householders and the opposite party as other processes before justices of the peace, at least three days before the return day thereof; and the householders so summoned, after being sworn faithfully and impartially to examine the ground which shall be pointed out to them by such corporation or person, or both, and described in the petition, shall assess the damages which they believe such owner or owners will sustain over and above the additional value which the owners of adjoining land will derive from the construction of such road, canal or other work; and make two written reports, signed by at least a majority of them, one of which shall be delivered to the corporation or person presenting such petition, and the other to the justice of the peace.

§ 9. **Conditional Appropriation.**—SEC. 2. Upon the payment to such justice for the use of the owners, or to the owners of such lands, of the damages assessed by said householders or a majority thereof, said corporation shall have the right to appropriate the land in question to its own

<sup>2</sup> \* See No. 460, *infra*.

use for corporate purposes, subject to the action of the district court in regard to damages as hereinafter provided: *Provided*, That nothing herein contained shall be construed to prevent such corporation from going upon such lands, for the purpose of preliminary surveys and explorations, and laying out the road or work.

§ 10. **Judgment, etc.**—SEC. 3. That said justice shall, within twenty days after the filing of such report of said householders, make out a certified copy thereof and file the same with the clerk of the district court of the district or sub-district in which the land lies, who shall put the case upon the trial docket of the next term. The petitioner to be plaintiff and the other party defendant, and thereupon, if no objection is made within ten days by either party, the same shall stand confirmed, and judgment be entered accordingly; but either or both parties may elect to have said cause tried, and the parties then shall be at liberty to file the ordinary pleadings in a civil action or such special pleadings as the court may allow; and the issues thus formed shall be tried as in other civil cases, the costs to be taxed against the corporation only when the verdict and judgment is for a larger amount than was awarded by the householders, or the cause has been tried at the instance of such corporation for the purpose of reducing the amount of damages, and the damages are not so reduced; otherwise the costs shall be taxed against the owner of the land.

§ 11. **Waiver of Appeal.**—SEC. 4. Either party may appeal to the supreme court of the Territory, as in other cases: *Provided*, That if the owner of the land accepts the sum awarded by the householders, he shall be deemed thereby to conclusively waive a trial in the district court and appeal to the supreme court, and final judgment by default may be rendered in the district court as in other cases.

§ 12. **Decree.**—SEC. 5. The district court at the time of rendering judgment for damages, whether upon default or trial, shall also enter up a judgment or decree of appropriation of the land or right-of-way in question, thereby vesting the legal title to the same in the corporation for corporate purposes.

§ 13. **Repealing Clause.**—SEC. 6. All acts and parts of acts heretofore passed upon this subject are hereby repealed.

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**No. 459.—AN ACT TO AMEND AN ACT APPROVED NOVEMBER 13, 1873, ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS."**<sup>1</sup>

§ 1. **Appropriation of Land and Water.**—SECTION 1. *Be it enacted, etc.*, That all corporations authorized to do business in the Territory, and who have been or may hereafter be organized for the purpose of erecting and maintaining flumes or aqueducts to convey water for consumption or for mining, irrigation, milling or other industrial purposes, shall have the same right to appropriate lands for necessary corporate purposes, and under the same regulations and instructions<sup>2</sup> as are provided for other corporations in the act to which this is amendatory; and such corporations organized for such purposes, in order to carry out the object of their incorporation, are authorized to take and use any water not otherwise legally appropriated or legally claimed.

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<sup>1</sup>Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 134.) In effect from date for act referred to in title, see No. 458.

<sup>2</sup>"Restrictions."

**No. 460.—CHAPTER CLXXXVII—CORPORATIONS, WHEN AUTHORIZED TO APPROPRIATE LAND FOR CORPORATE PURPOSES.<sup>1</sup>**

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<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 425, 429, secs. 2455 to 2460, inclusive, 2472 to 2477, inclusive.) This No. is *verbatim* as No. 458, *supra*, except § 5 of said No. at <sup>2</sup> the word "not" is omitted, and § 6 at <sup>2</sup> instead of "grounds is" read "grounds are;" § 12 of said No. is omitted. Also No. 459, after the enacting clause down to and inclusive of the word "appropriated" (the words "or legally claimed" at the end of said No. being omitted), appears *verbatim* in the Code as sec. 2472.

**No. 461.—AN ACT TO AMEND SECTION 2474 OF CHAPTER 188 OF THE CODE OF WASHINGTON, RELATING TO CONDEMNING AND APPROPRIATING LAND BY PRIVATE CORPORATIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That section 2474 <sup>2</sup> of the Code of Washington shall be amended to read as follows: "Sec. 2474. Upon the payment to such justice, for the use of the owners of such lands, or to the owners of such lands, of the damages assessed by said householders, or a majority thereof, said corporation shall have the right to appropriate the land in question to its own use for corporate purposes, subject to the action of the district court in regard to damages as hereinafter provided: *Provided*, That nothing herein contained shall be construed to prevent such corporation from going upon such lands for the purpose of preliminary surveys and explorations and laying out the road or work: *Provided further*, That in the condemnation and appropriation of school lands for right-of-way and railroad purposes, the summons shall be served on the auditor of the county in which the lands to be condemned and appropriated are located; and that the damages arising from such condemnation and appropriation shall be paid into the common school fund of said county."

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 35.)

<sup>2</sup> See No. 460 and 458, § 8, *supra*.

**No. 462.—AN ACT TO AUTHORIZE TELEGRAPH AND TELEPHONE COMPANIES TO EXERCISE THE RIGHT OF EMINENT DOMAIN AND TO PRESCRIBE THE MODE OF APPROPRIATION.**

§ 1. **Right of Entry and Location.**—*Be it enacted, etc.* SECTION 1. That every corporation incorporated under the laws of this Territory or any state or territory of the United States for the purpose of constructing, operating or maintaining any telegraph or telephone in this Territory shall have the right to enter upon any land between the termini of its proposed lines of telegraph or telephone for the purpose of examining, locating and surveying the line of such telegraph or telephone, doing no unnecessary damage thereby.

§ 2. **What Amount and for What Purpose May.**—SEC. 2. Such telegraph or telephone company may appropriate so much land as may be actually necessary for its line of telegraph or telephone, with the right to enter upon lands immediately adjacent thereto, for the purpose of constructing, maintaining and operating its line and making all necessary repair. Such telegraph or telephone company may also, for the purpose aforesaid, enter upon and appropriate such portion of the right-of-way of any railroad company as may be necessary for the construction, maintenance and operation of its telegraph or telephone line: *Provided, however*, That such appropriation shall not obstruct such railroad or the travel thereupon, nor interfere with the operation of such railroad.

<sup>1</sup> Approved Feb. 1, 1888. (See Eleventh Bien. Sess. 1887-8, p. 65.) In effect from date.

**§ 3. Petition for: Substance of, etc.**—SEC. 3. Whenever any telegraph or telephone company authorized by this act to appropriate lands or any interest therein for the purposes aforesaid, is unable to agree with the owner thereof as to the compensation to be paid, either such telegraph or telephone company or the owner of the land may, by petition, in which the land or the interest therein sought to be appropriated shall be described with reasonable certainty, apply to the judge of the judicial district in which said land is situated for the appointment of three disinterested householders to assess damages. Such petition may be filed with the clerk of any district court of said judicial district.

**§ 4. Notice: Substance of—Service of—Proof—Assessment of Damages, etc.**—SEC. 4. A notice stating briefly the objects of the petition and containing a description of the lands or property proposed to be taken, and stating the time and place when and where the same will be presented to the court, or the judge thereof, shall be served on each and every person named therein as owner, incumbrancer, tenant or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons so named therein, if a resident of this Territory; in all other cases the notice may be served in the same manner as summons in civil actions may be served in this Territory, and upon proof of service of notice and presentation of the petition to the judge, the latter shall appoint three disinterested householders, who shall be residents and electors of said district, and shall direct the clerk of said court to issue a summons under the seal of the court requiring said householders to appear before said judge at a certain place and on a certain day, not less than ten nor more than twenty days from the date of making said order, which said summons shall be served upon the householders and the opposite party (unless such party shall have appeared), as other processes in the district court, at least five days before the return day thereof; and the householders so summoned, after being sworn faithfully and impartially to examine the property proposed to be appropriated by such company or owner, or both of them, shall assess the damages which, in their judgment, such owner will sustain by the appropriation of such property for the purposes aforesaid, and said householders shall make written reports, signed by at least a majority of them, one of which shall be delivered to the petitioner or person authorized to represent the same, one to the owner or his agent and the other to the clerk of the said district court to be filed.

**§ 5. Conditional Appropriation.**—SEC. 5. Upon the payment to such clerk for the use of the owner of the property sought to be appropriated of the damages assessed by said householders, said telegraph or telephone company shall have the right to appropriate such property to its own use for the corporate purposes aforesaid, subject to the action of the district court in regard to damages, as hereinafter provided.

**§ 6. Judgment, etc.**—SEC. 6. The clerk of said district court shall immediately file said report, and put the case upon the trial docket of the next term, the petitioner to be plaintiff and the owner to be defendant. If no objection be made and filed with said clerk by either party to said report or proceedings within ten days after the delivery of the report to said party, the said report shall stand confirmed, and judgment of appropriation shall be rendered accordingly, after payment of the damages as above provided. But either party may elect to have said cause tried and the parties shall then be at liberty to file the ordinary pleadings in a civil action, or such special proceedings as the court may allow; and the issues thus formed shall be tried as in other civil cases, the costs to be taxed against the telegraph or telephone company only when the verdict and judgment is for a larger amount than was awarded by the householders, or the cause has been tried at the instance of such telegraph company for the purpose of reducing the amount of damages and the damages are



not so reduced; otherwise, the costs shall be taxed against the owner of the land.

**§ 7. Waiver of Appeal.**—SEC. 7. Either party may appeal from the judgment of the district court to the supreme court, as in other cases: *Provided*, That if the owner of the land accepts the sum awarded by the householders, he shall be deemed thereby to conclusively waive a trial in the district court or appeal to the supreme court, and final judgment shall be rendered against him, as in other cases.

**§ 8. Decree.**—SEC. 8. The district court, at the time of rendering judgment for damages, whether upon default or trial, shall also enter up judgment for the appropriation of the property, which judgment shall be deemed to vest the title to the same in the telegraph or telephone company for the uses above stated which are hereby declared to be public.

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**No. 463.—AN ACT IN RELATION TO THE POWERS OF CORPORATIONS AND TO AMEND CHAPTER CLXXXVII OF THE CODE OF WASHINGTON, RELATING TO THE SAME SUBJECT.<sup>1</sup>**

**§ 1. Right of Entry and Appropriation.**—*Be it enacted, etc.* SECTION 1. That section 2455<sup>2</sup> of the Code of Washington be and the same is hereby amended to read as follows: Sec. 2455. A corporation organized for the construction of any railway, macadamized road, plank road, clay road, canal or bridge, shall have a right to enter upon any land, real estate or premises, between the termini thereof for the purpose of examining, locating and surveying the line of such road and canal, or the site of such bridge, doing no unnecessary damage thereby.

**§ 2. What Amount and for What Purpose May.**—SEC. 2. That section 2456<sup>3</sup> of the Code of Washington is hereby amended so as to read as follows: Sec. 2456. That such corporation may appropriate so much of said land, real estate or premises as may be necessary for the line of such road or canal, or the site of such bridge, not exceeding two hundred feet in width, besides a sufficient quantity thereof for toll houses, workshops, materials for construction, a right-of-way over adjacent lands or premises to enable such corporation to construct and repair its road, canal or bridge, and to make proper drains; and in the case of a railroad, to appropriate sufficient quantity of such lands, real estate or premises in addition to that before specified in this section, for the necessary side tracks, depots and water stations, and the right to conduct water thereto by aqueduct; compensation therefor to be made to the owner thereof, irrespective of any increased value thereof by reason of the proposed improvement by such corporation, in the manner provided by law: *And provided further*, That if such corporation locate the bed of such railroad or canal upon any portion of the track now occupied by any established Territorial or county road, said corporation shall be responsible to the county commissioners of said county or counties in which said Territorial or county road so appropriated is located, for all expenses incurred by said county or counties in relocating and opening the portion of said road so appropriated.

**§ 3. Railway Companies: Right of Crossing—Right to Divert Water Courses, Roads, etc.**—SEC. 3. That there be and there are hereby added to said chapter CLXXXVII two new sections to be called sections 2456½ and 2456¾, which shall read as follows: Sec. 2456½. Every corporation formed under this chapter for the construction of a railroad shall have the power

<sup>1</sup> Approved Feb. 1, 1888. (See Eleventh Bien. Sess. 1887-88, p. 63.) In effect from date.

<sup>2</sup> See Nos. 460 and 458, § 1.

<sup>3</sup> See Nos. 460 and 458, § 2.

to cross, intersect, join and unite its railway with any other railway before constructed at any point in its route, and upon the grounds of such other railway company, with the necessary turnouts, sidings, switches and other conveniences in furtherance of the object of its connections, and every corporation whose railway is or shall be hereafter intersected by any new railway, shall unite with the corporation owning such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in the manner provided by law for the taking of lands and other property which shall be necessary for the construction of its road. Sec. 2456<sup>1</sup>. Every corporation formed under the laws of this Territory for the construction of railroads shall possess the power to construct its railway across, along or upon any river, stream of water, water course, plank road, turnpike or canal, which the route of such railway shall intersect or touch; but such corporation shall restore the river, stream, water course, plank road or turnpike thus intersected or touched, to its former state, as near as may be, and pay any damages caused by such construction: *Provided*, That the construction of any railway by such corporation along, across or upon any of the navigable rivers or waters of this Territory shall be in such manner as to not interfere with, impede or obstruct the navigation thereof.

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**No. 464.—AN ACT TO REGULATE THE MODE OF PROCEEDING TO APPROPRIATE LANDS, REAL ESTATE OR OTHER PROPERTY, BY CORPORATIONS FOR CORPORATE PURPOSES, AND OF ASCERTAINING AND SECURING COMPENSATION THEREFOR.**

**§ 1. Petition for: Substance of.**—*Be it enacted, etc.* SECTION 1. Whenever any corporation authorized by law to appropriate lands, real estate, premises or other property for right-of-way or other corporate purposes, is unable to agree with the owner thereof as to the compensation to be paid therefor, either such corporation or the owner of such lands, or any person interested in such lands, real estate, premises or other property, may present to the district court of the district including the county in which any land, real estate, premises or other property proposed to be taken shall be situated, or to the judge of such district court, a petition in which the lands, real estate, premises or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, incumbrancer or other person interested in the same or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated and praying the appointment of three competent, disinterested persons as commissioners to ascertain and determine the compensation to be made to such owner or owners respectively, and to all tenants, incumbrancers and others interested, for the taking or injuriously affecting such lands, real estate, premises or other property.

**§ 2. Notice: Substance of—Service of—Proof of—Effect of.**—SEC. 2. A notice stating briefly the objects of the petition and containing a description of the lands or property proposed to be taken, and stating the time and place when and where the same will be presented to the court, or the judge thereof, shall be served on each and every person named therein as owner, incumbrancer, tenant or otherwise interested therein, at least ten days previous to the time designated in such notice

<sup>1</sup>Approved Feb. 1, 1888. (See Eleventh Bien. Sess. 1887-88, p. 58.) In effect from date.

for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons so named therein, if a resident of the Territory, or in case of the absence of such person, by leaving a copy of such notice at his or her usual place of abode, with some person of over sixteen years. In case of domestic corporations such service may be made upon the president, secretary or any director or trustee of such corporation. In case of minors on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor; in case of idiots, lunatics or distracted persons, on their guardian, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In all cases where the owner or person claiming an interest in such real or other property is a non-resident of this Territory, or where the residence of such owner or person is unknown, and an affidavit by the agent or attorney of the corporation shall be filed that such owner or person is a non-resident of this Territory, or that after diligent inquiry his residence is unknown or cannot be ascertained by such deponent, service may be made by publication thereof in any newspaper published in the county where such lands are situate, once a week for four successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest to the county in which lies the land sought to be appropriated. And such publication shall be deemed service upon each of such non-resident person or persons whose residence is unknown. Such notice shall be signed by the president, general manager, secretary or attorney of the corporation; and in case the proceedings provided for in this act are instituted by the owner or any other person interested in the land, real estate, premises or other property, proposed to be taken, then such notice shall be signed by such owner or person interested, or his or her attorney. Such notice may be served by any competent person over twenty-one years of age. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such district court, before the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served but all persons having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, orders and other papers in the proceedings authorized by this act may be made as the district court or the judge thereof may direct.

**§ 3. Other Notice.**—SEC. 3. The court or judge may upon application of the petitioner or of any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

**§ 4. Hearing—Assessment of Damages.**—SEC. 4. At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court shall have satisfactory proof that all parties interested in the lands, real estate, premises or other property described in said petition, have been duly served with said notice as above prescribed, and shall be further satisfied by competent proof that the public interest require the prosecution of such enterprise, and that the lands, real estate or other property proposed to be taken are required and necessary for the purposes of such enterprise, the court may make an order to be recorded in the minutes thereof, appointing three competent, disinterested persons, resident in said district, commissioners to ascertain and determine the amount to be paid by such corporation to each of such owners or persons interested as compensation for his or her damages, by reason of the taking or injuriously affecting any such land or real estate, premises or other property, and specifying the time and place of the first meeting of said commissioners and fixing their compensation. Before

entering upon their duties such commissioners shall severally take and subscribe an oath, before some person qualified to administer oaths, faithfully and impartially to discharge the duties of their appointment.

**§ 5. Viewing of Premises—Appraisement and Award.**—SEC. 5. The commissioners shall meet at the time and place mentioned in the order appointing them, and shall proceed to examine so much of the line of the canal, railroad or other improvement named in said petition as is situate in said district and described in said petition, and all the land, real estate, premises or other property which will be taken, appropriated or used by or for the purposes of said enterprise, and which are described in said petition, and shall hear the allegations and testimony of all persons interested, and proceed to make in each case a separate assessment of damages which will result to any parties, corporation or company by reason of the construction of said canal, railroad or improvement, and shall determine, appraise and award to the owners of such land, property, premises, easement or any other right proposed to be taken or injuriously affected the amount of damages arising to them respectively, from the taking or injuriously affecting their said land, property, premises or estate for the purpose of such enterprise.

**§ 6. Report of Appraisers.**—SEC. 6. Within twenty days after completing the said examination and the making of the said appraisement of damages, the said commissioners, or a majority of them, shall file a report of their doings in the premises, in the office of the district court embracing the county where the said application for the appointment of said commissioners was made; and if no appeal is taken as hereinafter provided within thirty days from the filing of such report, the same shall stand confirmed and judgment be entered accordingly.

**§ 7. Conditional Appropriation.**—SEC. 7. Upon the filing of said report, the petitioners, or any officer of or other person duly appointed by said corporation, may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said court, to be paid out under the direction of the judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs, to any tract or parcel mentioned in said affidavit, such railroad company or other corporation shall be released and discharged from any and all further liability therefor, unless upon appeal, the owner should recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court, the costs of appeal, together with the sum heretofore paid into said court.

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**§ 8. Appeals.**—SEC. 9. Appeals from the assessments made by the commissioners may be taken and prosecuted in the district court where the report of said commissioners is filed by any party interested, within thirty days from the date of filing such report as aforesaid, and such appeal shall be taken by like notice to parties interested, or their attorneys, as in appeals from justice courts to the district court; \* \* \*

\* \* \* \* \*

**§ 9. Effect of Appeal.**—SEC. 11. Appeals shall bring before the appellate court the sufficiency of the amount of damages in respect to the parties to the appeal; and unless the parties otherwise agree, the matter shall be submitted to a jury and tried as other appeal cases are tried, and the court or jury, as the case may be, shall re-assess the damages aforesaid, making the verdict confirm [conform] to the justice and facts of the case.

**§ 10. Waiver of Appeal.**—SEC. 12. Either party may appeal to the supreme court of the Territory as in other cases: *Provided*, That if the owner of the land, real estate or other property accepts the sum awarded by the commissioners, he shall be deemed thereby to conclusively waive a trial in the district court and appeal to the supreme court, and final

judgment by default may be rendered in the district court as in other cases.

§ 11. **Decree.**—SEC. 13. The district court, at the time of rendering judgment for damages, whether upon default or trial, shall also enter up a judgment or decree of appropriation of the land or right-of-way in question, thereby vesting the legal title to the same in the corporation for corporate purposes.

§ 12. **This Remedy Exclusive.**—SEC. 14. That the remedy provided by this act shall be exclusive of all other remedies.

§ 13. **Scope of This Act.**—SEC. 15. No rights acquired in actions now pending under existing laws shall be affected by anything herein contained; and as to all pending actions, such laws are continued in full force and effect.

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### CHAPTER III.—FOREIGN CORPORATIONS.

#### No. 465.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS FOR CERTAIN PURPOSES.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

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§ 2. **Are of no Validity in This Territory.**—SEC. 25. All corporations hereafter formed under the laws of other states and territories for the conducting and transaction of any of the branches of business mentioned in section first <sup>2</sup> of this act, shall not be allowed to engage in such business within this Territory, and shall be disregarded in law and denied the rights and privileges of corporations.

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<sup>1</sup> Passed Jan. 27, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 55.)

<sup>2</sup> See No. 414, § 1, *supra*.

#### No. 466.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS FOR CERTAIN PURPOSES," APPROVED JANUARY 27, 1866.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Marine, Life and Fire Insurance.**—SEC. 2. *Be it further enacted,* That the twenty-fifth section of the act to which this is amendatory <sup>2</sup> be stricken out, and in lieu thereof the following be inserted, and said section twenty five shall read: "Sec. 25. All corporations now existing or hereafter formed under the laws of other states and territories for the conducting and transacting of marine, life or fire insurance business, with an authorized agent residing in and having an office in this Territory, shall have ample power to do and transact such insurance business within this Territory not inconsistent with the organic act of this Territory, with ample power by their corporate name and style to enjoy all such rights not inconsistent with the organic act as aforesaid, and to maintain and defend the same in any court or place within this Territory as fully as though said companies were domestic corporations, incorporated by and in accordance with the laws of this Territory."

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<sup>1</sup> Approved Jan. 29, 1867. (See Fourteenth Bien. Sess. 1866-67, p. 137.) In effect from date.

<sup>2</sup> See No. 465, § 2, *supra*.

**No. 467.—AN ACT TO PROVIDE FOR THE FORMATION OF CORPORATIONS.<sup>1</sup>**

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<sup>1</sup>Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 330, sec. 25.) This No. is verbatim as that part of No. 466, *supra*, enclosed in " ".

**No. 468.—AN ACT IN RELATION TO FOREIGN CORPORATIONS HOLDING PROPERTY OR DOING BUSINESS IN THIS TERRITORY.<sup>1</sup>**

§ 1. **Corporate Powers.**—SECTION 1. *Be it enacted, etc.,* That all corporations now existing or hereafter formed under the laws of the states or other territories of the United States shall have full power and authority to sue and be sued, hold, purchase and acquire, sell, lease and dispose of real and personal property, and generally to do and perform any and every act and transact business within this Territory in the same manner and to the same extent as though said corporation had been organized under the laws of this Territory: *Provided*, That any such corporation hereafter acquiring property or commencing to transact business in this Territory shall first comply with the provisions of section two of this act: *And provided further*, That all the real estate of such corporation within this Territory \* \* \* shall be liable to taxation in this Territory, any provisions in this act incorporating said company to the contrary notwithstanding.

§ 2. **Articles to be Filed—Agent Appointed.**—SEC. 2. That said corporation shall file or cause to be filed in the office of the secretary of the Territory, an authenticated copy of its act or articles of incorporation, and shall constitute and appoint an agent, who shall reside at the place in the Territory where the principal place of business of said corporation in the Territory shall be carried on, duly authorized to accept service of process, and upon whom service of process may be made in any action or suit pertaining to the property, business or transactions of said corporation within this Territory, in which said corporation may be a party, and shall file in the office of the secretary of the Territory a duly executed appointment of such agent, naming his place of residence, and shall continually have and keep some resident agent so as aforesaid empowered; and service upon such agent shall be taken and held as due service on said corporation: *Provided further*, That said agent, or his place of residence, may from time to time be changed upon filing a new appointment or notice of the change in the place of residence.

§ 3. **Scope of This Act.**—SEC. 3. That nothing in this act shall be so construed as to render void anything heretofore done by any corporation of any other territory or state of the United States, not inconsistent with the organic law of this Territory, but such acts and things shall remain valid as if the same had been done by corporations formed under the laws of this Territory.

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<sup>1</sup>Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 101.) In effect from date.

**No. 469.—AN ACT PERMITTING FOREIGN CORPORATIONS TO TRANSACT BUSINESS, AND ACQUIRE, HOLD AND DISPOSE OF REAL ESTATE.<sup>1</sup>**

§ 1. **Corporate Powers, etc.**—SECTION 1. *Be it enacted, etc.,* That any corporation incorporated under the laws of any state in the United States, or of any foreign country, state or colony, may acquire, hold, use and dispose of in the corporate name all real estate necessary or convenient to

<sup>1</sup>Approved Nov. 5, 1875. (See Fifth Bien. Sess. 1875, p. 109.) In effect from date.



carry into effect the objects of its incorporation and the transaction of its business, and also any interest in real estate by mortgage or otherwise as security for moneys due to or loans made by such foreign corporation in this Territory, either prior to or after the passage of this act: *Provided*, Such corporation shall file in the office of the secretary of the Territory a certified copy of its charter or certificate of incorporation.

§ 2. **Not Necessary Agent to Reside Within Territory.**—SEC. 2. That so much of section two (2) of the act entitled "An act in relation to foreign corporations holding property or doing business in this Territory," approved November 29th, 1871,<sup>2</sup> as requires corporations to appoint an agent who shall reside in the Territory, shall not apply to corporations provided for in section one (1) of this act.

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<sup>2</sup> See No. 468, § 2, *supra*.

**No. 470.—AN ACT CONFERRING UPON FOREIGN CORPORATIONS CERTAIN POWERS.<sup>1</sup>**

§ 1. **May Appropriate Land.**—SECTION 1. *Be it enacted, etc.*, That all foreign corporations doing business in this Territory are authorized to appropriate land for corporate purposes to the same extent and under the same restrictions, rules and regulations as are prescribed by law for domestic corporations in the act of the legislative assembly of Washington Territory, approved November 13, 1873, entitled "An act to provide for the formation of corporations."<sup>2</sup>

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<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Bien. Sess. 1879, p. 148.) In effect from date.

<sup>2</sup> See No. 458, *supra*.

**No. 471.—CHAPTER CLXXXIX—FOREIGN CORPORATIONS.<sup>1</sup>**

§ 1. **Corporate Powers, etc.**—SEC. 2478. All corporations now existing or hereafter formed under the laws of other states or territories of the United States for the conducting and transacting of marine, life and fire insurance, or any other business not inconsistent with the organic law of this Territory, shall have full power and authority to sue and be sued, hold, purchase and acquire, sell and dispose of real and personal property, and generally to do and perform any and every act, and transact business within this Territory in the same manner and to the same extent as though such corporation had been organized under the laws of this Territory: *Provided*, That any such corporation hereafter acquiring property or transacting business as aforesaid shall first comply with the provisions of this chapter.

§ 2. **Corporate Powers—Duties.**—SEC. 2479. Any corporation incorporated under the laws of any state in the United States, or of any foreign country, state or colony, may acquire, hold, use, and dispose of, in the corporate name, all real estate necessary or convenient to carry into effect the objects of its incorporation and the transaction of its business, and also any interest in real estate, by mortgage or otherwise, as security for moneys due to or loans made by such foreign corporation in this Territory either prior to or after the passage of this act: *Provided*, Such corporation shall file in the office of the secretary of the Territory a certified copy of its charter or a certified copy of its certificate of incorporation.

§ 3. **Articles to be Filed—Agent Appointed.**—SEC. 2480. Such corporation shall file and record, or cause to be filed and recorded, in the office of the secretary of the Territory an authenticated copy of its char-

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 430.)

ter, act, certificate or articles of incorporation, and shall constitute and appoint an agent, who shall reside at the place in the Territory where the business of said corporation shall be carried on: *Provided*, That in case any such corporation should desire to carry on business in more than one place in this Territory at one and the same time, then such corporation shall constitute and appoint an agent to reside at the principal place of business of such corporation, as herein provided.

**§ 4. Notice of Appointment—Powers of Agent.**—SEC. 2481. Every foreign corporation who shall constitute and appoint an agent or agents to reside in any place or places in this Territory for the purpose of carrying on business in accordance with this act shall file and record, or cause to be filed and recorded, in the office of the secretary of the Territory, a duly executed appointment of the agent appointed to reside at the principal place of business of such corporation. Such appointment shall contain the name of the agent and his place of residence, and shall duly authorize such agent to accept service of process in any action or suit pertaining to the property, business or transactions of such corporation within this Territory in which such corporation may be a party, and shall continually have and keep some resident agent empowered, as aforesaid, during all of the time such corporation shall conduct and carry on business in this Territory; and service of any process, pleading or other paper upon such agent shall be taken and held as due service on said corporation: *Provided further*, That any agent or his place of business may from time to time be changed, upon the filing and recording in the office of the secretary of the Territory a new appointment and notice of the change in the place of residence of such agent.

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**§ 5. Scope of This Act.**—SEC. 2487. Nothing in this act shall be so construed as to render void anything heretofore done by any foreign corporation not inconsistent with the organic law of this Territory; but such acts shall remain valid, as if the same had been done by corporations formed under the laws of this Territory.

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**No. 472.—AN ACT TO AMEND SECTIONS 2479 AND 2480 OF THE CODE OF WASHINGTON TERRITORY IN RELATION TO FOREIGN CORPORATIONS.<sup>1</sup>**

**§ 1. Powers and Duties of—Filing Articles—Appointment of Agent, etc.**—*Be it enacted, etc.* SECTION 1. That sections 2479<sup>2</sup> and 2480<sup>2</sup> of the Code of Washington Territory be and the same are hereby amended to read as follows: Sec. 2479. Any corporation incorporated under the laws of any state or territory in the United States or of any foreign country, state or colony, may acquire, hold, use and dispose of, in the corporate name, all real estate necessary or convenient to carry into effect the objects of its incorporation and the transaction of its business not to exceed 5,000 acres of land, and also any interest in real estate, by mortgage or otherwise, as security for moneys due to or loans made by such foreign corporation in this Territory either prior to or after the passage of this act: *Provided*, That no foreign corporations hereafter organized for the purpose of dealing in real estate, by buying and selling the same as a part of its business, shall be permitted to transact such business in this Territory: *Provided further*, Such corporations shall file and record, or cause to be filed and recorded, in the office of the secretary of the Territory, a certified copy of its charter or articles of incorporation, or mem-

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 87.) All conflicting acts repealed. In effect from date.

<sup>2</sup> See No. 471, *supra*, § 2.

orandum of association, or certificate of incorporation, certified as provided in section 2480 of this Code, and shall in all respects comply with the provisions of sections 2480 and 2481<sup>a</sup> of this Code. Sec. 2480. Such corporation shall file and record, or cause to be filed and recorded, in the office of the secretary of the Territory, a certified copy of its charter, or articles of incorporation, or memorandum of association, or certificate of incorporation. When a certified copy of articles of incorporation or memorandum of association is filed and recorded, as required by this act, it shall be certified to by the officer with whom, or in whose office, articles of incorporation or memorandums of association are required to be filed or registered by the laws of the state, territory or colony where the corporation filing and recording such certified copy was originally incorporated. When a certified copy of a charter is filed and recorded as required by this act, it shall be certified to by the officer who is the legal custodian of original charters of incorporations under the laws of the state, territory, country or colony where the corporation filing and recording such certified copy was originally incorporated, when a certified copy of a certificate of incorporation is filed and recorded, as required by this act, the certificate thereto shall be made by the officer who is authorized to issue certificates of incorporation to corporations, or certificates stating that corporations are duly incorporated by the laws of the state, territory, country or colony where the corporation filing and recording such certified copy was originally incorporated. The certificates required by this act shall be attested by the officer making the same, under his hand and official seal, or the seal of his office: *Provided*, He has an official seal or a seal of office; in the event that such officer has no official seal or seal of office, his certificate shall state that fact. If the certificate hereby required be made out of the states or territories of the United States and is not under seal as above provided; the genuineness of the signature of the officer making the same, and the fact that at the time of making such certificate, the person making the same held the office described in the certificate shall be attested by the consul, vice consul or consular agent of the United States at the place where such certificate is made; and such corporation shall constitute and appoint an agent who shall reside at the place in the Territory where the business of said corporation shall be carried on: *Provided*, That in case any such corporation should desire to carry on business in more than one place in this Territory at one and the same time, then such corporation shall constitute and appoint an agent to reside at the principal place of business of such corporation as herein provided. No corporation which has heretofore complied with the provisions of the laws of this Territory hitherto existing regarding foreign corporations, is required to file and record, or cause to be filed and recorded, the certified copies provided for in this act.

\* \* \* \* \*

<sup>a</sup> See No. 471, §§ 3, 4, *supra*.

## TITLE VIII.—COUNTIES.†

**No. 473.—AN ACT IN RELATION TO COUNTIES.<sup>1</sup>**

§ 1. **Corporate Powers.**—SECTION 1. *Be it enacted, etc.,* That the several counties in this Territory shall have capacity as bodies corporate to sue and be sued in the manner prescribed by law; to purchase and hold lands within its own limits; to make such contracts and to purchase and hold such personal property as may be necessary to its corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county.

§ 2. **Effect of Conveyance.**—SEC. 2. Every conveyance of lands or transfer of other property made in any manner for the use of such county shall have the same force and effect as if made to said county in its proper and corporate name.

§ 3. **When County Divided—How Lands Disposed.**—SEC. 3. When a county seized of lands shall be divided into two or more counties, or shall be altered in its limits by the annexing of a part of its territory to another county or counties, such county shall become seized to its own use of such part of said lands as shall be included within its limits, as settled by such division or alteration.

\* \* \* \* \*

§ 4. **Actions by and Against.**—SEC. 6. All actions against any county may be commenced in the district court of such county, or of the adjoining county, and all actions by any county shall be commenced in the district court of the county in which the defendant resides, or in the county adjoining the county by which such action is commenced.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 328.)

**No. 474.—AN ACT AUTHORIZING COUNTY COMMISSIONERS TO LOCATE LAND FOR THE BENEFIT OF COUNTY SEATS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the county commissioners in each county of this Territory be and are hereby authorized to locate one quarter section of land in their respective counties for the benefit of county seats, in accordance with an act of congress passed May 26, 1824, and report the same to the office of surveyor general.

<sup>1</sup> No date given. (See first Reg. Sess. 1854, p. 424.)

**No. 475.—AN ACT TO LEGALIZE THE ACTS OF COUNTY COMMISSIONERS OF SUCH COUNTIES AS HELD A TERM OF COURT ON THE SIXTH DAY OF JUNE, A. D. 1859.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That all the acts of the several boards of county commissioners of this Territory, at terms of court commenced and held on the sixth day of June, A. D. 1859, be and the same are hereby declared legal and valid.

<sup>1</sup> Passed Jan. 26, 1860. (See Seventh Reg. Sess. 1859-60, p. 326.)

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† For special acts relating to "Counties," see Division II of this Subject—"Special Laws."

**No. 476.—AN ACT IN RELATION TO COUNTIES.<sup>1</sup>**

§ 1. **Corporate Powers.**—SECTION 1. *Be it enacted, etc.,* That the several counties in this Territory shall have a capacity as bodies corporate to sue and be sued, in the manner prescribed by law; to purchase and hold lands within its own limits; to make such contracts and to purchase and hold such personal property as may be necessary to its corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county.

§ 2. **Effect of Conveyance by.**—SEC. 2. Every conveyance of lands or transfer of other property made in any manner for the use of such county, shall have the same force and effect as if made to said county in its proper and corporate name.

§ 3. **When County Divided—How Lands Disposed.**—SEC. 3. That whenever a new county shall be or shall have been organized over territory which shall have been included within the limits of any other county or counties, the new county shall be liable for a reasonable proportion of the debts of the county from which it was taken, and entitled to its proportion of the property of the county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 17, 1863. (See Tenth Reg. Sess. 1862-63, p. 538.) In effect from date.

**No. 477.—CHAPTER CCVIII—COUNTIES.<sup>1</sup>**

§ 1. **Corporate Powers.**—SEC. 2653. The several counties in this Territory shall have capacity as bodies corporate to sue and be sued, in the manner prescribed by law; to purchase and hold lands within its own limits; to make such contracts and to purchase and hold such personal property as may be necessary to its corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county.

§ 2. **Corporate Name.**—SEC. 2654. The name of a county designated in the law creating it is its corporate name, and it must be known and designated thereby in all actions and proceedings touching its corporate rights, property and duties.

§ 3. **How Powers Exercised.**—SEC. 2655. Its powers can only be exercised by the county commissioners, or by agents or officers acting under their authority or authority of law.

§ 4. **Effect of Conveyance.**—SEC. 2656. Every conveyance of lands, or transfer of other property, made in any manner for the use of such county, shall have the same force and effect as if made to said county in its proper and corporate name.

§ 5. **When County Divided—How Lands Disposed.**—SEC. 2657. That whenever a new county shall be, or shall have been organized over Territory which shall have been included within the limits of any other county or counties, the new county shall be liable for a reasonable proportion of the debts of the county from which it was taken, and entitled to its proportion of the property of the county.

\* \* \* \* \*

§ 6. **Boundaries: How Established and Marked.**—SEC. 2661. All common boundaries and common corners of counties not adequately marked by natural objects or lines, or by surveys lawfully made, must be definitely established by surveys jointly made by the surveyors of all the counties affected thereby and approved by the board of county commissioners of such counties, or by a survey made by the surveyor general

<sup>1</sup> Approved Nov. 4, 1881. (See Code 1881, p. 462.)

on application by the board of county commissioners of any county affected thereby. \* \* \*

§ 7. **Taxes—How Collected.**—SEC. 2662. When a county is divided or the boundary is altered all taxes levied before the decision was made or boundaries changed must be collected by the officers of and belong to the county in which the territory was situated before the division or change.

## TITLE IX.—COURTS.†

### CHAPTER I.—DISTRICT COURTS.

#### 1. DISTRICTS.

#### **No. 478.—AN ACT TO DEFINE THE JUDICIAL DISTRICTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Sessions.**—SECTION 1. *Be it enacted, etc.,* That the session of the supreme court shall be holden at the seat of government on the first Monday in December in each year.

§ 2. **Three Districts.**—SEC. 2. The Territory is hereby divided into three judicial districts.

§ 3. **First.**—SEC. 3. The first district shall consist of the counties of Walla Walla, Skamania, Clarke, Cowlitz, Wahkiakum and Pacific.

§ 4. **Second.**—SEC. 4. The second district shall consist of the counties of Lewis, Chehalis, Thurston and Sawamish.

§ 5. **Third.**—SEC. 5. The third district shall consist of the counties of Pierce, King, Island, Clallam, Jefferson and Whatcom.

§ 6. **Chehalis Attached to Thurston; Clallam to Jefferson.**—SEC. 10. The county of Chehalis is hereby attached to the county of Thurston for judicial purposes; and the county of Clallam, for like purposes, is attached to the county of Jefferson.

§ 7. **When to Take Effect.**—SEC. 11. This act to take effect from and after the first day of June, 1854.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 448.)

#### **No. 479.—AN ACT TO DEFINE THE JUDICIAL DISTRICTS.<sup>1</sup>**

§ 1. **First.**—SECTION 1. *Be it enacted, etc.,* That the counties of Walla Walla, Skamania, Clarke, Cowlitz, Wahkiakum and Pacific shall constitute the first judicial district.

§ 2. **Second.**—SEC. 2. The counties of Lewis, Thurston, Pierce, Chehalis, King and Sawamish shall constitute the second judicial district.

§ 3. **Third.**—SEC. 3. The counties of Island, Whatcom, Clallam, Jefferson and Slaughter shall constitute the third judicial district.

<sup>1</sup> No date given. (See Fourth Reg. Sess. 1856-57, p. 3.)

† For special acts relating to "Courts," see Division II of this Subject—"Special Laws."



**No. 480.—AN ACT TO DEFINE THE JUDICIAL DISTRICTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **First.**—SECTION 1. *Be it enacted, etc.,* That the counties of \* \* \* Spokane and Walla Walla shall constitute the first judicial district.

§ 2. **Second.**—SEC. 2. The counties of Klickitat, Skamania, Clarke, Cowlitz, Wahkiakum and Pacific shall constitute the second judicial district.

§ 3. **Third.**—SEC. 3. The counties of Chehalis, Lewis, Thurston, Samish, Pierce, King, Kitsap, Island, Snohomish, Jefferson, Clallam and Whatcom shall constitute the third judicial district.

\* \* \*  
§ 4. **Date in Effect.**—SEC. 5. This act to take effect and be in force from and after the day of April, 1862.

<sup>1</sup> Passed Jan. 4, 1862. (See Ninth Reg. Sess. 1861-62, p. 7.) All conflicting laws and parts of laws repealed.

**No. 481.—AN ACT IN RELATION TO THE DISTRICT COURTS.<sup>1</sup>**

§ 1. **First, Second and Third Districts.**—SECTION 1. *Be it enacted, etc.,* That the counties of Walla Walla, Stevens and Ferguson shall compose the first judicial district. The counties of Klickitat, Skamania, Clarke, Wahkiakum, Cowlitz, Pacific, Chehalis, Lewis, Thurston and Mason shall compose the second judicial district. The counties of Pierce, King, Kitsap, Jefferson, Clallam, Whatcom, Island and Snohomish shall compose the third judicial district.

\* \* \*  
§ 2. **Jurisdiction.**—SEC. 3. The jurisdiction of the district court holding terms at Walla Walla shall be in and for the counties of Walla Walla, Stevens and Ferguson. The jurisdiction of the district court holding terms at Vancouver shall be in and for the counties of Klickitat, Skamania, Wahkiakum, Clarke, Cowlitz and Pacific. The jurisdiction of the district court holding terms at Olympia shall be in and for the counties of Thurston, Lewis, Chehalis and Mason. The jurisdiction of the district court holding terms at Steilacoom shall be in and for the county of Pierce. The jurisdiction of the district court holding terms at Port Townsend shall be in and for the counties of Jefferson, Clallam, Whatcom and Island. The jurisdiction of the district court holding terms at Seattle shall be in and for the counties of King, Kitsap and Snohomish.

\* \* \*  
<sup>1</sup> Passed Jan. 19, 1864. (See Eleventh Reg. Sess. 1863-64, p. 17.) All conflicting or inconsistent acts or parts of acts repealed. In effect from date.

**No. 482.—AN ACT DEFINING THE SEVERAL JUDICIAL DISTRICTS OF THIS TERRITORY AND ASSIGNING THE JUDGES THERETO.<sup>1</sup>**

§ 1. **First, Second, Third.**—SECTION 1. *Be it enacted, etc.,* That the county of Stevens shall compose the first judicial district. The counties of Walla Walla, Yakima, Klickitat, Skamania, Clarke, Cowlitz, Pacific, Wahkiakum, Lewis, Mason, Thurston and Chehalis, shall constitute the second judicial district. The counties of Pierce, King, Kitsap, Jefferson, Clallam, Whatcom, Island and Snohomish shall compose the third judicial district.

§ 2. **Jurisdiction.**—SEC. 2. The jurisdiction of the district court holding terms at Fort Colville shall be in and for the county of Stevens. The

<sup>1</sup> Approved Jan. 23, 1868. (See Sixth Bien. Sess. 1867-68, p. 23.) All conflicting acts and parts of acts repealed. In effect from date.

jurisdiction of the district court holding terms at Walla Walla shall be in and for the counties of Walla Walla and Yakima. The jurisdiction of the district court holding terms at Vancouver shall be in and for the counties of Klickitat, Skamania, Clarke, Cowlitz, Pacific and Wahkiakum. The jurisdiction of the district court holding terms at Olympia shall be in and for the counties of Thurston, Lewis, Chehalis and Mason. The jurisdiction of the district court holding terms at Steilacoom shall be in and for the county of Pierce. The jurisdiction of the district court holding terms at Port Townsend shall be in and for the counties of Jefferson, Clallam, Whatcom and Island. The jurisdiction of the district court holding terms at Seattle shall be in and for the counties of King, Kitsap and Snohomish.

\* \* \* \* \*

**No. 483.—AN ACT TO DIVIDE THE TERRITORY INTO JUDICIAL DISTRICTS.<sup>1</sup>**

§ 1. **First.**—SECTION 1. *Be it enacted, etc.,* That the judicial districts of this Territory shall be as follows, to wit: The first district shall be composed of the counties of Walla Walla, Stevens and Yakima.

§ 2. **Second.**—SEC. 2. The second district shall be composed of the counties of Thurston, Mason, Chehalis, Lewis, Pacific, Cowlitz, Wahkiakum, Clarke, Skamania and Klickitat.

§ 3. **Third.**—SEC. 3. The third district shall be composed of the counties of Whatcom, Island, Snohomish, King, Kitsap, Pierce, Jefferson and Clallam.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 21, 1871. (See Third Bien. Sess. 1871, p. 106.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 484.—AN ACT TO SUBDIVIDE THE JUDICIAL DISTRICTS OF THE TERRITORY OF WASHINGTON, AND PROVIDING PLACES FOR HOLDING COURTS THEREIN.<sup>1</sup>**

§ 1. **First Judicial—First Sub-District.**—SECTION 1. *Be it enacted, etc.,* That the several judicial districts of the Territory shall be subdivided as follows, to wit: The first judicial district shall be divided into two sub-districts, as follows: The county of Walla Walla shall be the first sub-district and Walla Walla city shall be the place for holding the court therein.

§ 2. **First Judicial—Second Sub-District.**—SEC. 2. The counties of Stevens and Yakima shall be the second sub-district, and Fort Colville, in Stevens county, and Yakima City, in Yakima county, shall be alternately the places for holding said district courts, at the times prescribed in "An act to fix the times for holding the supreme and district courts:" *Provided,* That all civil suits or actions pending in said courts shall continue until final determination in the court holding its term at the place where suit is commenced, except by consent of parties, any civil action or suit in equity may be transferred, heard and determined at the next term in said sub-district, and the law governing the change of venue in civil actions shall govern in said transfers, \* \* \*

§ 3. **Second Judicial: First Sub-District.**—SEC. 3. The second judicial district shall be divided into three sub-districts, as follows: The county of Pacific shall be the first sub-district and Oysterville the place for holding courts therein.

§ 4. **Second Judicial: Second Sub-District.**—SEC. 4. The counties of Wahkiakum, Cowlitz, Clarke, Skamania and Klickitat shall be the second

<sup>1</sup>Approved Nov. 28, 1871. (See Third Bien. Sess. 1871, p. 84.) All conflicting acts and parts of acts repealed. In effect from date.

sub-district and the city of Vancouver the place for holding the courts therein.

§ 5. **Second Judicial: Third Sub-District.**—SEC. 5. The counties of Thurston, Lewis, Chehalis and Mason shall be the third sub-district and the city of Olympia the place for holding courts therein.

§ 6. **Third Judicial: First Sub-District.**—SEC. 6. The third judicial district shall be divided into sub-districts, as follows, to wit: The counties of Whatcom, Island, Jefferson and Clallam shall be the first sub-district and Port Townsend the place for holding court therein.

§ 7. **Third Judicial: Second Sub-District.**—SEC. 7. The counties of King, Kitsap and Snohomish shall be the second sub-district and the city of Seattle the place for holding court therein.

§ 8. **Third Judicial: Third Sub-District.**—SEC. 8. The county of Pierce shall be the third sub-district and the city of Steilacoom the place for holding court therein.

\* \* \* \* \*

**No. 485.—AN ACT TO SUBDIVIDE THE JUDICIAL DISTRICTS OF WASHINGTON TERRITORY AND PROVIDING PLACES FOR HOLDING COURTS THEREIN.<sup>1</sup>**

§ 1. **First Judicial: Sub-Districts.**—SECTION 1. *Be it enacted, etc.,* That the first judicial district shall be divided into three sub-districts, as follows: The counties of Walla Walla (and Ping) shall be one sub-district, and Walla Walla city shall be the place of holding the courts therein; the county of Yakima shall be one sub-district and Yakima City shall be the place of holding the courts therein; the counties of Stevens and Whitman shall be one sub-district and Colfax, in Whitman county, shall be the place of holding the courts therein.

§ 2. **Second Judicial: Sub-Districts.**—SEC. 2. The second district shall be divided into three sub-districts, as follows: The counties of Klickitat, Skamania and Clarke shall be one sub-district and Vancouver, in Clarke, shall be the place for holding the courts therein; the counties of Cowlitz, Wahkiakum and Pacific shall be one sub-district and Kalama, in Cowlitz county, shall be the place for holding the courts therein; the counties of Thurston, Lewis, Chehalis and Mason shall be one sub-district and Olympia, in Thurston county, shall be the place for holding courts therein.

§ 3. **Third Judicial: Sub-Districts.**—SEC. 3. The third judicial district shall be divided into three sub-districts, as follows: The county of Pierce shall be one sub-district and Steilacoom, in said Pierce county, shall be the place of holding the court therein; the counties of King, Kitsap and Snohomish shall be one sub-district and Seattle, in King county, shall be the place of holding the courts therein: *Provided*, Snohomish county shall be a sub-district of the third judicial district for the trial of all cases arising in said county wherein the United States is not a party thereto; the counties of Jefferson, Island, Whatcom, San Juan and Clallam shall be one sub-district and Port Townsend, in Jefferson county, shall be the place for holding the courts therein.

<sup>1</sup>Approved Nov. 11, 1875. (See Fifth Bien. Sess. 1875, p. 48.)

**No. 486.—CHAPTER CLV—COURTS.<sup>1</sup>**

\* \* \* \* \*

§ 1. **Terms and Jurisdiction.**—SEC. 2114. That there shall hereafter be held in this Territory regular terms of the district courts each year, at the times and places hereinafter mentioned.

\* \* \* \* \*

<sup>1</sup> This No. is composed in the original of parts of two acts; §§ 1, 2, 3, 4 approved Dec. 7, 1881; § 5 approved —, 1881. (See Code 1881, p. 361, chap. 155.)

§ 2. **First.**—SEC. 2116 (1) The court held at Walla Walla shall be for the county of Walla Walla; (2) the court held at Dayton shall be for the counties of Columbia and Garfield; (3) the court held at Colfax shall be for the county of Whitman; (4) the court held at Cheney shall be for the county of Spokane; (5) the court held at the county seat of Stevens county shall be for the county of Stevens.

§ 3. **Second.**—SEC. 2118. The court held at Vancouver shall be for the counties of Clarke and Skamania; the court held at Olympia shall be for the counties of Thurston, Mason and Chehalis; the court held at Kalama shall be for the counties of Cowlitz and Wahkiakum; the court held at Oysterville shall be for the county of Pacific; the court held at Chehalis shall be for the county of Lewis; the court held at Goldendale shall be for the county of Klickitat; the court held at Yakima City shall be for the county of Yakima; and the several courts mentioned herein shall be held by the judge of the second judicial district.

§ 4. **Third.**—SEC. 2120. The court held at Seattle shall be for the counties of King and Kitsap; the court held at Port Townsend shall be for the counties of Jefferson, Island, San Juan and Clallam; the court held at La Conner shall be for the district embraced within the present boundaries of Whatcom county; the court held at New Tacoma shall be for the county of Pierce; the court held at Snohomish city shall be for the county of Snohomish.

§ 5. **Jurisdiction.**—SEC. 2121 The courts herein mentioned are hereby established as district courts, and they shall have, by *mandamus*, prohibition and *certiorari*, the supervision and control of all proceedings before probate courts, justices of the peace and other inferior tribunals. They shall, except where it is otherwise provided by law, have original and general jurisdiction of all matters at law, \* \* \* and of all cases in equity and of all cases for divorce, \* \* \* They shall have appellate jurisdiction in all cases, civil \* \* \* where appeal or writ of *certiorari* shall be taken from the judgment or proceedings of a probate court, justice of the peace or other inferior tribunal. They shall also have jurisdiction of all other matters made cognizable therein by statute.

§ 6. **Federal Jurisdiction.**—SEC. 2122. The following courts and none other shall have jurisdiction in causes in which the United States is a party. The court held at Walla Walla, the court held at Colfax, the court held at Cheney, the court held at Olympia, the court held at Kalama, the court held at Yakima City, the court held at New Tacoma, the court held at Seattle, and the court held at Port Townsend.

**No. 487.—AN ACT TO AMEND CHAPTER CLV OF THE CODE OF WASHINGTON TERRITORY, ENTITLED "COURTS."**<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.*

§ 2. **Districts Defined—Terms.**—SEC. 2 That section 2114<sup>2</sup> of said chapter one hundred and fifty-five shall be so amended that said section shall read as follows: "Section 2114. For judicial purposes the Territory of Washington is divided into four judicial districts, as follows: The first district shall include the counties of Walla Walla, Franklin, Columbia, Whitman, Garfield and Asotin; the second district shall include the counties of Skamania, Clarke, Cowlitz, Lewis, Thurston, Mason, Chehalis, Wahkiakum, Pacific and Pierce; the third district shall include the coun-

<sup>1</sup> Approved Jan. 9, 1886. (See Tenth Blen. Sess. 1885-86, p. 54.) In effect from date.

<sup>2</sup> See No. 486, § 1, *supra*.

ties of King, Kitsap, Snohomish, Skagit, Whatcom, Island, San Juan, Clallam and Jefferson; the fourth district shall include the counties of Stevens, Spokane, Lincoln, Adams, Douglas, Klickitat, Yakima and Kittitas. And that there shall hereafter be held in the Territory regular terms of court within and for the districts above recited each year, at the times and places hereinafter designated.

\* \* \* \* \*

§ 3. **First.**—SEC. 4. That section 2116\* of said chapter one hundred and fifty-five, Code of Washington Territory, shall be so amended as to read as follows: "Section 2116. The county court held at Dayton shall be for the county of Columbia; the court held at Pomeroy shall be for the counties of Garfield and Asotin; the court held at Walla Walla shall be for the counties of Walla Walla and Franklin; the court held at Colfax shall be for the county of Whitman."

\* \* \* \* \*

§ 4. **Second.**—SEC. 6. That section 2118\* of said chapter one hundred and fifty-five, Code of Washington Territory, shall be so amended as to read as follows: "Section 2118. The court held at Chehalis shall be for the county of Lewis; the court held at Tacoma shall be for the county of Pierce; the court held at Vancouver shall be for the counties of Clarke and Skamania; the court held at the county seat of Cowlitz county shall be for the counties of Cowlitz and Wahkiakum; the court held at Olympia shall be for the counties of Thurston and Mason; the court held at Oyster-ville shall be for the county of Pacific; the court held at the county seat of Chehalis county shall be for the county of Chehalis."

\* \* \* \* \*

§ 5. **Third.**—SEC. 8. That section 2120\* of said chapter, one hundred and fifty-five, Code of Washington Territory, shall be so amended as to read as follows: Sec. 2120. The court held at Seattle shall be for the counties of King and Kitsap. The court held at Whatcom shall be for the county of Whatcom. The court held at Port Townsend shall be for the counties of Jefferson, Island, Clallam and San Juan. The court held at LaConner shall be for the county of Skagit. The court held at Snohomish City shall be for the county of Snohomish.

§ 6. **Fourth.**—SEC. 9. There shall follow said section 2120, amendatory of said chapter one hundred and fifty-five, Code of Washington Territory, two sections, respectively numbered 2120½ and 2120¾, relating to district courts in and for the fourth judicial district, which shall respectively read as follows, that is to say: Sec. 2120½. Regular terms of court shall be held at Ellensburg on the fourth Monday of March and the fourth Monday of September of each year. At the county seat of Yakima county on the second Monday of April and the second Monday of October of each year. At Goldendale on the fourth Monday of April and the fourth Monday of October of each year. At Sprague on the first Monday of May and first Monday of November in each year. At the county seat of Spokane county on the third Monday of May and the third Monday of November of each year. At Colville on the second Monday of June of each year. Sec. 2120¾. The court held at Ellensburg shall be for the county of Kittitas. The court held at the county seat of Yakima county shall be for the county of Yakima. The court held at Goldendale shall be for the county of Klickitat. The court held at Sprague shall be for the counties of Lincoln, Douglass and Adams. The court held at the county seat of Spokane county shall be for the county of Spokane. The court held at Colville shall be for the county of Stevens.

§ 7. **Federal Jurisdiction.**—SEC. 10. That section 2122\* of said chapter one hundred and fifty-five, Code of Washington Territory, shall be

\* See No. 486, § 2, *supra*.

\* See No. 486, § 3, *supra*.

\* See No. 486, § 4, *supra*.

\* See No. 486, § 6, *supra*.

amended so as to read as follows: "Sec. 2122. That the courts held at Walla Walla, Colfax and Pomeroy shall have jurisdiction over all offenses against the laws of the United States arising in the first judicial district, and of all actions to which or in which the United States is a party, the courts held at Vancouver, Olympia and Tacoma shall have jurisdiction of all offenses against the laws of the United States arising in the second judicial district and of all actions in which or to which the United States is a party; the courts held at Seattle, Whatcom and Port Townsend shall have jurisdiction of all offenses against the laws of the United States arising in the third judicial district and of all actions in which or to which the United States is a party; the courts held at the county seat of Yakima county, at the county seat of Spokane county, and at Sprague shall have jurisdiction of all offenses against the laws of the United States arising in the fourth judicial district and of all actions to which or in which the United States is a party."

\* \* \* \* \*

§ 8. **Jurisdiction of Court at Whatcom.**—SEC. 12. That the records of the court heretofore held at Whatcom shall be transferred to the court at Whatcom established by this act. All suits now pending in the court heretofore held at Whatcom shall also be transferred with said records, and shall be tried and determined in the court at Whatcom established by this act. All judgments and decrees heretofore rendered, made or entered in the court heretofore held at Whatcom, are continued in force, and process to enforce the same may issue out of the court held at Whatcom under this act as if there had been no change in the jurisdiction conferred by this act on the court held at Whatcom.

§ 9. **Jurisdiction of Court at Pomeroy.**—SEC. 13. That the records of the court heretofore held at Pomeroy, shall be transferred to the court at Pomeroy established by this act. All suits now pending in the court heretofore held at Pomeroy shall also be transferred with said records, and shall be tried and determined in the court at Pomeroy established by this act. All judgments and decrees heretofore rendered, made or entered in the court heretofore held at Pomeroy are continued in force, and process to enforce the same may issue out of the court held at Pomeroy under this act as if there had been no change in the jurisdiction conferred by this act on the court held at Pomeroy.

§ 10. **Scope of this Act.**—SEC. 14. That the enactment of this law shall not work an adjournment of any term of court now being held, but such term of court may continue until the Saturday before the first Monday in February, 1886, and it is hereby provided that all actions, civil or criminal, now pending in the district court at Cheney, which, had this act been in force, should have been commenced at Sprague, may, upon the motion of either party, be transferred to the court at which said action should have been commenced if this act had been in force, and thereafter all proceedings shall be had therein at the court to which said transfer is made as though said action had been commenced in said court

\* \* \* \* \*

**No. 488.**—AN ACT TO AMEND SECTION 2122 OF CHAPTER 155 OF THE CODE OF WASHINGTON, ENTITLED "COURTS," AS THE SAME WAS AMENDED BY SECTION 10 OF AN ACT OF THE LEGISLATIVE ASSEMBLY OF WASHINGTON TERRITORY, ENTITLED "AN ACT TO AMEND CHAPTER 155 OF THE CODE OF WASHINGTON TERRITORY, ENTITLED 'COURTS,' APPROVED JANUARY 9, 1886."<sup>1</sup>

§ 1. **Federal Jurisdiction.**—*Be it enacted, etc.* SECTION 1. That section 2122<sup>2</sup> of chapter one hundred and fifty-five, Code of Washington

<sup>1</sup>Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 78.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup>See No. 486, § 6, *supra*.



Territory, as amended by section 10<sup>2</sup> of an act entitled "An act to amend chapter 155 of the Code of Washington Territory, entitled 'Courts,' approved January 9, 1886," be and the same is hereby amended so as to read as follows: Section 2122 That the courts held at Walla Walla, Colfax and Pomeroy shall have jurisdiction over all offenses against the laws of the United States arising in the first judicial district, and of all actions to which or in which the United States is a party; the courts held at Vancouver, Olympia and Tacoma shall have jurisdiction of all offenses against the laws of the United States arising in the second judicial district, and of all actions in which and to which the United States is a party; the courts held at Seattle, Whatcom and Port Townsend shall have jurisdiction of all offenses against the laws of the United States arising in the third judicial district, and of all actions in which or to which the United States is a party. The courts held at the county seat of Yakima county, at the county seat of Spokane county and at Colville shall have jurisdiction of all offenses against the laws of the United States arising in the fourth judicial district, and of all actions to which or in which the United States is a party

§ 2. **Pending Actions Transferred.**—SEC. 2. That civil \* \* \* actions now pending and undecided in the district court now held at Sprague shall be and they are hereby transferred to the district court holding terms at the county seat of Spokane county, and the clerk of the court at Sprague shall certify the records and transfer the original pleadings and papers in such cases under the same regulations as now govern in other cases in regard to change of the place of trial from one district court to another district court.

\* \* \* \* \*

<sup>2</sup>See No. 487, § 7, *supra*.

## 2. JUDGES AT CHAMBERS.

### No. 489.—AN ACT CONFERRING ADDITIONAL POWERS ON DISTRICT JUDGES IN WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Powers.**—SECTION 1. *Be it enacted, etc.,* That the judge of any district court may hear, try and determine during vacation, at chambers, any case whatever which, without the aid of a jury, said judge could hear, try or determine during any regular session of any district court.

\* \* \* \* \*

<sup>1</sup>Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 24.) In effect from date.

### No. 490.—AN ACT THE BETTER TO PROVIDE FOR THE PROMPT AND CONVENIENT DISPATCH OF BUSINESS IN THE DISTRICT COURTS OF THIS TERRITORY.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Powers.**—SEC. 2. That the district courts shall be deemed always open for the rendition of judgments, and for the transaction of all other business except trials by jury and the hearing of causes upon their merits: *Provided, always,* That by consent of parties, or after the entry of default, the judge may at any time hear and determine any matter which does not require the intervention of a jury, or where the parties have consented of record to waive a trial by jury.

\* \* \* \* \*

<sup>1</sup>Approved Feb. 13, 1873. (See Fourth Bien. Sess. 1873, p. 472.) In effect from date.

**No. 491.—AN ACT PRESCRIBING THE POWER AND DUTIES OF JUDGES AT CHAMBERS.<sup>1</sup>**

§ 1. **Justices of Supreme Court: Powers.**—SECTION 1. *Be it enacted, etc.*, That the justices of the supreme court and each of them may, at chambers, grant all orders and writs which are usually granted in the first instance, upon an *ex parte* application, except writs of review, mandate and prohibition, and may in their discretion hear application to discharge such order and writs

§ 2. **District Judges: Powers.**—SEC. 2. The district judges in their respective districts may, at chambers in vacation, here and determine all matters whatever, which do not require the intervention of a jury, and all orders, judgments and decrees determining such matters, and made or rendered by the judges at their chambers, may be entered of record in vacation and shall have the like force and effect from the date of such entry as if made and rendered by the court, and entered in term time: *Provided*, That when neither party is in default, no final hearing or final determination of any action, upon its merits, shall be had by any judge at chambers, unless the parties, plaintiff and defendant, by stipulation in writing, consent that the judge so hear and determine the same.

§ 3. **Repealing Clause.**—SEC. 7. The \* \* \* second \* \* \* sections of the act entitled "An act the better to provide for the prompt and convenient dispatch of business in the district courts of this Territory," approved November 18, 1878,<sup>2</sup> are hereby repealed.

<sup>1</sup>(See Fifth Bien. Sess. 1875, p. 36.) In effect from "date of passage," but no date given.

<sup>2</sup>See No. 490, *supra*.

**No. 492.—CHAPTER CLV.—COURTS.<sup>1</sup>**

§ 1. **Powers.**—SEC. 2138. The several judges of the district courts in this Territory, and each of them in their respective districts, may, at chambers, in vacation, entertain, try, hear and determine all actions, causes, motions, demurrers and other matters not requiring a trial by jury; and all rulings, orders, judgments and decrees, made or rendered by a judge of the district court at chambers, may be entered of record in vacation, and shall have like force and effect as though made or rendered at a regular term of the district court.

§ 2. **Appeal, etc.**—SEC. 2139. All final orders judgments and decrees, made or rendered by a judge at chambers, may be reviewed in the supreme court upon an appeal or writ of error, in the same manner as orders, judgments and decrees made or rendered at regular terms of the district court, and every final order, judgment and decree, made or rendered in vacation, shall be deemed excepted to, at the time the same is made or rendered.

<sup>1</sup>Approved Oct. 18, 1881. (See Code 1881, p. 364.)

CHAPTER II.—JUSTICES' COURTS.

**No. 493.—AN ACT RELATING TO JUSTICES OF THE PEACE AND CONSTABLES, AND THE PRACTICE BEFORE JUSTICES OF THE PEACE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

III.

\* \* \* \* \*

§ 2. **Jurisdiction.**—SEC. 24. The jurisdiction conferred by the last section shall not however extend to the civil actions:<sup>2</sup> (1) In which the title to real property shall come in question. (2) Nor to an action for the foreclosure of a mortgage, or the enforcement of a lien on real estate.

\* \* \* \* \*

VII.

§ 3. **Title to Land.**—SEC. 69. If it appear on the trial of any cause before a justice of the peace, from the evidence of either party, that the title to lands is in question, which title shall be disputed by the other party,<sup>3</sup> the justice shall immediately make an entry thereof in his docket, and cease all further proceedings in the cause, and shall certify and return to the district court of the county, a transcript of all the entries made in his docket, relating to the cause, together with all the process and other papers relating to the action, in the same manner, and within the same time as upon an appeal; and thereupon the parties shall file their pleadings, and the district court shall proceed in the cause to final judgment and execution, in the same manner as if the said action had been originally commenced therein.

\* \* \* \* \*

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 222, 227, 235.)

<sup>2</sup> The section here referred to relates only to actions affecting personal property, etc.

<sup>3</sup> See Nos. 495, 496, 497, *infra*.

<sup>4</sup> See No. 496, *infra*.

**No. 494.—AN ACT RELATING TO JUSTICES OF THE PEACE AND CONSTABLES, AND THE PRACTICE BEFORE JUSTICES OF THE PEACE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 31, 1860. (See Seventh Reg. Sess. 1859-60, pp. 238, 242, chap. 3, sec. 24; p. 252, chap. 7.) This No. is *verbatim* as No. 493, *supra*.

**No. 495.—AN ACT RELATING TO JUSTICES OF THE PEACE, AND TO THEIR PRACTICE AND JURISDICTION.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 23, 1863. (See Tenth Reg. Sess. 1862-63, p. 336, chap. 2; pp. 339, 367, secs. 17, 18, chap. 13.) This No. is *verbatim* as No. 493, *supra*, except § 2 of said No. at <sup>2</sup> instead of "the civil actions" read "the following civil actions," and § 3 at <sup>3</sup> "party" is omitted.

**No. 496.—AN ACT RELATING TO JUSTICES OF THE PEACE, AND TO THEIR PRACTICE AND JURISDICTION.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, pp. 330, 333, 369, chap. 2, secs. 17, 18, chap. 13.) This No. is *verbatim* as No. 493, *supra*, except § 1 of said No. at <sup>2</sup> instead of "the civil actions" read "the following civil actions," and at <sup>4</sup> the word "before" is inserted after "or"—evidently an error; and § 3 at <sup>3</sup> "party" is omitted.

**No. 497.—AN ACT RELATING TO JUSTICES OF THE PEACE, AND TO THEIR PRACTICE AND JURISDICTION.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, p. 285, secs. 1710, 1711, 1868.) This No. is verbatim as No. 493, *supra*, except § 1 of said number at 2 instead of "the civil actions" read "the following civil actions," and § 3 at 2 "party" is omitted.

**CHAPTER III.—PROBATE COURTS.**

**No. 498.—AN ACT ESTABLISHING PROBATE COURTS FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. **Probate Judge: Election, Term, etc.**—SECTION 1. *Be it enacted, etc.* That there shall be elected at the first general election, and every three years thereafter, in each county in this Territory, one suitable person, who shall have the qualifications of an elector, who shall be styled the "probate judge," and the court hereby constituted shall be called the "probate court," and such judge shall hold his office for three years, and until his successor is duly elected and qualified.

\* \* \* \* \*

§ 2. **Jurisdiction.**—SEC. 3. That the probate court in their respective counties shall have and possess the following powers: Exclusive and original jurisdiction in all cases relative to the probate of last wills and testaments; the granting letters testamentary and of administration and revoking the same; the appointment and displacing guardians of orphan minors and of persons of unsound mind, \* \* \* to hear and determine all disputes and controversies respecting wills, the right of executorship, administration and guardianship, or relative to the duties and accounts of executors, administrators and guardians. \* \* \*

§ 3. **Seal.**—SEC. 4 That said court shall provide and keep a suitable seal.

§ 4. **Court of Record.**—SEC. 5. That the court established by this act shall be a court of record, and shall keep just and faithful records of its proceedings and shall have power to issue all writs which may be necessary to the exercise of its jurisdiction according to the principles and usages of law

\* \* \* \* \*

§ 5. **Disqualification of Officer: How Remedied.**—SEC. 6. That when at any term of the probate court there is no sheriff or coroner, or either of them is not qualified to act, or both are from any cause disqualified, the court may appoint one or more persons to execute process and perform any other duty of the sheriff, \* \* \*

\* \* \* \* \*

§ 6. **Disqualification of Judge.**—SEC. 8. That no judge of the probate court shall sit on the determination of any cause or proceeding in which he is interested or related within the fourth degree to either party, or shall have been counsel.

§ 7. **District Court May Hear, etc.**—SEC. 9. That if the judge be disqualified from any cause for sitting on the determination of any cause or proceeding pending before him, the same shall be certified with the original papers to the district court of the county, which shall proceed thereon

<sup>1</sup> Passed April 14, 1854. (See First Reg. Sess. 1854, p. 309.)



to final judgment and determination the same as the probate court might have done.

§ 8. **Effect of Adjournments.**—SEC. 10. That if said court shall not be held on the first day of the term, such court shall stand adjourned from day to day until the evening of the third day. If at that time the judge shall not have appeared and opened court, the same shall stand adjourned until the next regular term. Special adjourned terms may be held in continuation of the regular term upon its being so ordered by the court in term time and entered by the clerk upon the record of the court

§ 9. **Process: How Attested.**—SEC. 14. That all process issuing out of the probate court shall be attested by the clerk and sealed with the seal of the court.

§ 10. **How Orders, Decrees, etc., Enforced.**—SEC. 15. That the probate court shall have the same power and authority, under like restrictions and rules of law, to enforce and execute their orders, rules, judgments and decrees, as may be prescribed by law for the district courts of this Territory.

§ 11. **Letters Administration in Vacation.**—SEC. 16. That it shall be the duty of the clerk of said probate court to issue letters of administration to any person applying for the same in vacation; subject, however, to the approval or disapproval of said court at its next session, and subject to all the liabilities and restrictions provided for by law: *Provided, however,* That when there is a last will and testament of any deceased person, letters of administration or executorship shall be granted by the said probate court when said court is in open session, and said letters shall be signed by the said court and certified by the clerk thereof.

§ 12. **Auditor Ex-Officio Clerk.**—SEC. 17. That the county auditor or clerk of the board of county commissioners be the clerk of the probate court in each county in this Territory.

§ 13. **Terms.**—SEC. 18. The probate court shall meet in each and every county, at the court house or at the usual place of holding the district court for such county, on the second Monday in April, July, September and December in each and every year: *Provided, however,* If the district court shall meet on any of the before mentioned days the probate court shall meet on the Monday preceding.

**No. 499.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT ESTABLISHING PROBATE COURTS FOR THE TERRITORY OF WASHINGTON," PASSED APRIL 14, 1854.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

§ 2. **Judge Ex-Officio Clerk.**—SEC. 2. That the seventeenth section of said act<sup>2</sup> be hereby repealed, and that it is hereby made the duty of the probate judge to perform all the duties heretofore required to be performed by his clerk.

<sup>1</sup> Passed Feb. 29, 1855. (See Second Reg. Sess. 1854-55, p. 18.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 496, § 12, *supra*.

**No. 500.—AN ACT TO CONFER CIVIL JURISDICTION ON JUDGES OF PROBATE.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.,* That the probate courts of the several counties of this Territory, at their criminal terms, shall have concurrent jurisdiction in all civil causes when the amount in controversy shall not exceed five hundred dollars.

<sup>1</sup> Passed Jan. 29, 1857 (See Fourth Reg. Sess. 1856-57, p. 16.)

**No. 501.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. Probate Judge: Election, Term, etc.**—SECTION 1. *Be it enacted, etc.*, That there shall be elected at the next general election, and every three years thereafter, in each county in this Territory, one suitable person, who shall have the qualification of an elector, who shall be styled the "probate judge," and the court hereby constituted shall be called the "probate court," and such judge shall hold his office for three years, and until his successor is duly elected and qualified.

**§ 2. Jurisdiction.** SEC. 3. That the probate court shall have and possess the following powers: Exclusive original jurisdiction within their respective counties in all cases relative to the probate of last wills and testaments; the granting of letters testamentary and of administration, and revoking the same; the appointment and displacing guardians of orphan minors, and of persons of unsound mind; \* \* \* to hear and determine all disputes and controversies respecting wills, the right of executorship, administration and guardianship, or relative to the duties and accounts of executors, administrators and guardians \* \* \*

**§ 3. Seal.**—SEC. 4. The said court shall provide and keep a suitable seal.

**§ 4. Court of Record.**—SEC. 5. That the court established by this act shall be a court of record, and shall keep just and faithful records of its proceedings, and shall have power to issue any and all writs which may be necessary to the exercise of its jurisdiction.

**§ 5. Terms.**—SEC. 6. The probate court shall meet in each and every county, at the county seat, on the third Monday in January, April, July and October, in each and every year *Provided, however,* That if the district court of the district embracing any county be in session at such time, the probate court of the county in which said district court is held shall stand adjourned until the first Monday of the ensuing month.

**§ 6. Judge Ex-Officio, Clerk.**—SEC. 7. The probate judge shall be *ex-officio* clerk of the probate court of said county, and for the performance of services not provided for in the act entitled "An act to regulate fees and costs" shall receive the same compensation as clerks of the district court for the performance of similar services.

**§ 7. Process: How Attested—Service.**—SEC. 8. That all process issuing out of the probate court shall be attested by the clerk, and sealed with the seal of the court, and shall be served in the same manner as processes issuing out of the district court.

**§ 8. Orders, Decrees, etc.: How Enforced.**—SEC. 9. That the probate court shall have the same power and authority, under like restrictions and rules of law, to enforce and execute their orders, rules, judgments and decrees, as the district courts of this Territory

**§ 9. Disqualification of Judge.**—SEC. 11. That no judge of the probate court shall sit on the determination of any cause or proceeding in which he is interested, or related within the fourth degree to either party, or shall have been counsel.

**§ 10. When Cause Shall be Transferred.**—SEC. 12. That if the judge be disqualified from any cause for sitting on the determination of any cause or proceeding pending before him, the same shall be certified with the original papers to the probate court of the next adjacent county, which shall proceed thereon to final judgment and determination.

<sup>1</sup> Passed Jan. 27, 1890. (See Seventh Reg. Sess. 1850-60, pp. 165, 234.)



§ 11. **Effect of Adjournment.**—SEC. 18. That if said court shall not be held on the first day of the term, such court shall stand adjourned from day to day until the evening of the third day. If at that time the judge shall not have appeared and opened court, the same shall stand adjourned until the next regular term. Special adjourned terms may be held in continuation of the regular term, upon its being so ordered by the court in term time and entered by the clerk upon the record of the court.

§ 12. **Letters May Issue in Vacation.**—SEC. 17. Letters of administration or letters of guardianship may be granted; inventory or account of sale of property returned during term time or vacation, and entered on record of the same day that such grant or return shall be made.

CHAPTER XVIII.

§ 13. **Extent of Jurisdiction.**—SEC. 376. All orders, settlements, trials and other proceedings intrusted by this act to the probate court shall be had or made in the county in which letters testamentary or of administration were granted.

§ 14. **Personal Notice: Substance of Citation.**—SEC. 378. Whenever personal notice is required by this act to be given to any party to a proceeding in the probate court, and no other mode of giving notice is prescribed, it shall be given by citation, issued from the court, signed by the judge and under the seal of the court, directed to the sheriff of the proper county, requiring him to cite such person to appear before the court or judge, as the case may be, at a time and place to be named in such citation. In the body of the citation shall be briefly stated the nature or character of the proceedings.

§ 15. **Service of Citation.**—SEC. 379. The officer to whom the citation is directed shall serve it by delivering a copy to the person named therein, or to each of them if there be more than one, and shall return the original to the court according to its direction, endorsing thereon the time and manner of service.

§ 16. **Process: How Attested.**—SEC. 381. All writs and processes issued from the probate court shall be signed by the judge and under the seal of the court.

§ 17. **Practice.**—SEC. 382. The practice in the district court shall be applicable to proceedings in the probate court, so far as the same does not conflict with any enactment specially applicable to the probate court or is not inconsistent with the provisions of this act.

§ 18. **Appeals to District Court: Grounds for.**—SEC. 383. Issues of fact joined in the probate court shall be certified by the probate judge to the district court of the district embracing his county for trial, on the application of any person interested in or to be affected by the decision thereof, in the cases following: (1) On granting or revoking letters testamentary or of administration. (2) On admitting a will to probate. (3) On revoking the probate or determining the validity of a will. (4) On setting apart property or making allowance for a widow or child. (5) On application for the sale or conveyance of real property. (6) On the settlement of an executor or administrator. (7) On declaring, allowing or directing the payment of a debt, legacy, claim or distributive share of the estate. (8) Orders and decrees in the matter of sales of property by guardians, and in the settlement of guardians accounts, and in the removal of guardians.

§ 19. **Limitation of Appeal.**—SEC. 384. A probate judge shall certify to a district court for trial any issue of fact mentioned in the preceding section, on the applicant filing a written notice with the clerk of the pro-

bate court, at any time within sixty days after the rendition of the decision of said probate court, to the effect that the applicant requires the issue to be certified to a district court for trial.

\* \* \* \* \*

§ 20. **Appeal to Supreme Court.**—SEC. 886. An appeal to the supreme court must be taken within sixty days after the rendition of the decision in the district court. In all other matters the law regulating appeals in civil actions in the district court shall, so far as the same may be applicable, govern appeals allowed by this act.

§ 21. **Repealing Clause.**—SEC. 888. The following named acts, to wit: "An act respecting executors, administrators, and the distribution of real and personal estate,"<sup>2</sup> passed at first session of [the] legislative assembly. "An act establishing probate courts for the Territory of Washington,"<sup>3</sup> passed April 14, 1854; "An act relating to wills,"<sup>4</sup> passed at the first session of [the] legislative assembly, the act entitled "An act to amend an act entitled an act establishing probate courts for the Territory of Washington,"<sup>5</sup> passed February 29, 1855; "An act touching the relation of guardian and ward,"<sup>6</sup> passed January 26, 1855; \* \* \* "An act to confer civil jurisdiction on judges of probate,"<sup>7</sup> passed January 29, 1857, "An act to amend an act entitled an act respecting executors, administrators, and the distribution of real and personal estate,"<sup>8</sup> passed January 29, 1857; \* \* \* and the act entitled "An act to construe an act entitled an act to amend an act entitled an act respecting executors, administrators, and the distribution of real and personal estate,"<sup>9</sup> passed January 11, 1859; and all acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed. But nothing hereinbefore contained shall be so construed as to affect the validity of proceedings heretofore commenced or lawfully done under and by virtue of any of the above recited acts; and all matters and things now pending in relation to the settlement of the estates of decedents or minors or accounts of guardians, executors or administrators, shall hereafter be so conducted as to conform to the practice established by this act. *Provided*, That laws conferring jurisdiction upon judges of probate in certain special cases, and not included in any of the acts enumerated in this section, not in conflict with any of the provisions of this act, be and the same shall continue in full force and effect.

<sup>2</sup> See No. 535, *infra*.

<sup>3</sup> See No. 498, *supra*.

<sup>4</sup> See No. 521, *infra*.

<sup>5</sup> See No. 499, *supra*.

<sup>6</sup> See No. 591, *infra*.

<sup>7</sup> See No. 500, *supra*.

<sup>8</sup> See No. 514, *infra*.

<sup>9</sup> See No. 515, *infra*.

#### **No. 502.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Probate Judge: Election, Term, etc.**—SECTION 1. *Be it enacted, etc.*, That there shall be elected at the next general election, and every three years thereafter, in each county in this Territory, one suitable person who shall have the qualifications of an elector, who shall be styled the judge of the probate court, and the court hereby constituted shall be called the probate court, and such judge shall hold his office for three years and until his successor is duly elected and qualified. *Provided*, That the probate judges heretofore elected in the several counties of this Territory shall hold their offices for the terms for which they were elected, and shall bear the style and have the jurisdiction conferred by this act.

\* \* \* \* \*

§ 2. **Jurisdiction.**—SEC. 3 That said probate courts shall have and possess the following powers: Exclusive original jurisdiction within their

<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 196, 201, 205, 277.) In effect from date.

respective counties in all cases relative to the probate of last wills and testaments; the granting of letters testamentary and of administration, and revoking the same; the appointment and displacing guardians of orphan minors, and of persons of unsound mind; \* \* \* The probate court shall also have concurrent jurisdiction with the district court of the Territory in all civil actions when the amount in controversy shall not exceed five hundred dollars. \* \* \*

§ 3. **Seal.**—SEC. 4. The said court shall provide and keep a suitable seal.

§ 4. **Court of Record.**—SEC. 5. That the court established by this act shall be a court of record, and shall keep just and faithful records of its proceedings, and shall have power to issue any and all writs which may be necessary to the exercise of its jurisdiction.

§ 5. **Terms.**—SEC. 6. A regular term of the probate court shall be held at the county seat of each county, commencing on the fourth Monday in January, April, July and October, for the transaction of all business of which said court has jurisdiction: *Provided, however,* That if the district court of the district embracing any county be in session at such time, the probate court of the county in which said district court is held shall stand adjourned until the first Monday of the ensuing month.

§ 6. **Probate Clerks.**—SEC. 7. The judges of the several probate courts in the Territory shall have power to appoint their own clerks, who shall qualify in the same manner and have the same power and be entitled to the same fees as are allowed to the clerks of the district courts for similar services.

§ 7. **Power to Make Rules.**—SEC. 8. The judges of the said courts shall have power to make such rules for the transaction of business in said courts as shall not be inconsistent with law

§ 8. **Records to be Kept.**—SEC. 9. The clerk of the probate court shall keep the same number and kind of books of record in civil \* \* \* cases as are now kept by the clerks of the district courts.

§ 9. **Process: How Attested—Service.**—SEC. 10. That all process issuing out of the probate court shall be attested by the clerk and sealed with the seal of the court, and shall be served in the same manner as process issuing out of the district court.

§ 10. **Orders, Decrees, etc.: How Enforced.**—SEC. 11. That the probate court shall have the same power and authority, under like restrictions and rules of law, to enforce and execute their orders, rules, judgments and decrees, as the district courts of this Territory

\* \* \*  
§ 11. **Disqualification of Judge.**—SEC. 13. That no judge of the probate court shall sit on the determination of any cause or proceeding in which he is interested, or related within the fourth degree to either party, or shall have been counsel

§ 12. **When Cause Shall be Transferred.**—SEC. 14. That if the judge be disqualified from any cause for sitting on the determination of any cause or proceeding pending before him, the same shall be certified with the original papers to the district court of the district including the county, which shall proceed thereon to final judgment and determination.

§ 13. **Effect of Adjournments.**—SEC. 15. That if said court shall not be held on the first day of the term such court shall stand adjourned from day to day until the evening of the third day. If at that time the judge shall not have appeared and opened court, the same shall stand adjourned until the next regular term. Special adjourned terms may be held in continuation of the regular term, upon its being so ordered by the court in term time and entered by the clerk upon the record of the court.

\* \* \* \* \*



§ 15. **Letters May Issue in Vacation.**—SEC. 17. Letters of administration or letters of guardianship may be granted; inventory or account of sale of property returned during term time or vacation, and entered on record of the same day that such grant or return shall be made.

#### CHAPTER II.

§ 16. **Practice.**—SEC. 18. The practice of the probate courts in civil cases shall conform to and be governed by the laws now regulating the practice in the district courts in civil cases, except as is hereinafter provided.

§ 17. **Service of Notice, etc.**—SEC. 19. It shall not be necessary for the plaintiff in a civil action in the probate court to serve a copy of his complaint and notice on the defendant more than ten days prior to the first day of a regular term of said court.

§ 18. **Orders, Writs, etc.: Power to Grant.**—SEC. 20. In all civil cases within their jurisdiction the probate courts and the judges thereof shall have the same power to grant all orders, writs and process which the district courts or the judges thereof have power to grant within their jurisdiction, and to hear and determine all questions arising within their jurisdiction as fully and completely as the district courts or the judges thereof have power to do under the laws of the Territory

\* \* \* \* \*

#### CHAPTER IV

§ 19. **Practice.**—SEC. 42. The practice in the district court shall be applicable to proceedings in the probate court so far as the same does not conflict with any enactment specially applicable to the probate court, or is not inconsistent with the provisions of this act.

§ 20. **Process: How Attested.**—SEC. 43. All writs and process issued from the probate court shall be signed by the clerk, and under the seal of the court.

§ 21. **Personal Notice: Substance of Citation.**—SEC. 44. Whenever personal notice is required by this act to be given to any party to a proceeding in the probate court, and no other mode of giving notice is prescribed, it shall be given by citation, issued from the court, signed by the clerk and under the seal of the court, directed to the sheriff of the proper county, requiring him to cite such person to appear before the court or judge, as the case may be, at a time and place to be named in such citation. In the body of the citation shall be briefly stated the nature or character of the proceedings.

§ 22. **Service of Citation.**—SEC. 45. The officer to whom the citation is directed shall serve it by delivering a copy to the person named therein, or to each of them if there be more than one, and shall return the original to the court according to its direction, endorsing thereon the time and manner of service.

§ 23. **Service of Citation.**—SEC. 46. In all cases in which citations are issued from the probate court, they shall be served at least ten days before the first day of the term, except when issued from the court in cases where the law requires the judge to issue them upon his own motion, and he does so issue them, and in such cases they shall be served in sufficient time to allow the person served to be in attendance on the court, and may be made returnable on any day of the term.

§ 24. **Extent of Jurisdiction.**—SEC. 47. All orders, settlements, trials and other proceedings intrusted by this act to the probate court shall be had or made in the county in which letters testamentary or of administration were granted.

\* \* \* \* \*

## CHAPTER XXI.

§ 25. **Appeals to District Court: Ground For.**—SEC. 412. Issues of fact joined in the probate court shall be certified by the probate court to the district court of the district embracing his county, for trial, on the application of any person interested in or to be affected by the decision thereof, in the cases following: (1) On granting or revoking letters testamentary or of administration. (2) On admitting wills to probate. (3) On revoking the probate or determining the validity of a will. (4) On setting apart property or making allowance for a widow or child. (5) On application for the sale or conveyance of real property. (6) On the settlement of an executor or administrator. (7) On declaring, allowing or directing the payment of a debt, legacy, claim or distributive share of the estate. (8) Orders and decrees in the matter of sales of property by guardians, and in the settlement of guardian's accounts and in the removal of guardians.

§ 26. **Appeals to Supreme Court.**—SEC. 413. An appeal to the supreme court must be taken within sixty days after the rendition of the decision in the district court. In all other matters the law regulating appeals in civil actions in the district court shall, so far as the same may be applicable, govern appeals allowed by this act.

\* \* \* \* \*

§ 27. **In What Case Appeals May be Had to District Court.**—SEC. 415. An appeal shall be allowed from the decision of the probate court to the district court in the cases following: (1) On granting or revoking letters testamentary or of administration or guardianship. (2) On admitting a will to probate. (3) On revoking the probate or determining the validity of a will. (4) On setting apart property or making an allowance for a widow or child. (5) On determination of the application for the sale or conveyance of real property. (6) On the settlement of an executor, administrator or guardian. (7) On declaring, allowing or rejecting the payment of a debt, legacy or distributive share of the estate. (8) On all other final orders and decrees.

SEC. 416. All appeals shall be taken within three months after the order or decree is rendered.

\* \* \* \* \*

## CHAPTER XXII.

§ 28. **Any Final Order, etc., Appealable.**—SEC. 420. Any person considering himself aggrieved by any final order or judgment of a probate court, in a civil action or criminal case, may appeal therefrom to the district court at its next term, holden twenty days or more after the term of the probate court at which the order or judgment complained of was made or rendered, but such appeal shall only be allowed upon questions of law.

\* \* \* \* \*

§ 29. **Repealing Clause.**—SEC. 423. All laws and parts of laws heretofore enacted upon any subject-matter provided for by this act are hereby repealed.

§ 30. **Concurrent Jurisdiction Restricted.**—SEC. 424. *And be it further enacted,* That so much of this act as confers civil \* \* \* jurisdiction on the probate courts concurrent with the district courts shall not be in force nor have any effect whatever in the counties of Pierce and Lewis.

\* \* \* \* \*

**No. 503.—AN ACT TO LIMIT THE JURISDICTION OF THE PROBATE COURT.<sup>1</sup>**

§ 1. **Concurrent Jurisdiction Repealed.**—SECTION 1 *Be it enacted, etc.*, That so much of the act of the legislative assembly entitled "An act defining the jurisdiction and practice in the probate courts of the Territory of Washington,"<sup>2</sup> passed January 16, 1863, as confers either original, appellate or concurrent civil and criminal jurisdiction upon the probate courts of said Territory be and the same is hereby repealed

§ 2. **Limitation of Jurisdiction.**—SEC. 3 This act shall limit the jurisdiction of probate courts by depriving them of original, concurrent or appellate jurisdiction in civil actions, \* \* \*

§ 3. **Transfer of Actions.**—SEC. 4. All actions, civil and criminal, which now are or which may be instituted or pending up to the first day of March, 1864, in any probate court in the Territory of Washington, by virtue of the act conferring civil \* \* \* jurisdiction on said probate courts, shall be and are hereby transferred to and docketed in the proper district court having jurisdiction of the district or county in which such action has commenced; \* \* \* and all papers, records and matters pertaining to said causes in the probate courts of the several counties in the possession of the clerks thereof shall be delivered on or before the first Monday of March, 1864, by the respective clerks thereof, to the clerk of the United States district court, to which the said jurisdiction attaches.

\* \* \*  
<sup>1</sup> Passed January 28, 1864. (See Eleventh Reg. Sess. 1863-64, p. 22.) All inconsistent acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 502, *supra*.

**No. 504.—AN ACT MAKING COUNTY AUDITORS EX-OFFICIO CLERKS OF THE PROBATE COURTS OF THEIR RESPECTIVE COUNTIES.<sup>1</sup>**

§ 1. **Judge May Act as—Clarke County Excepted.**—SECTION 1 *Be it enacted, etc.*, That each of the county auditors of the several counties of Washington Territory shall be *ex-officio* clerks of the probate court in and for their respective counties. *Provided*, That the probate judges of the several counties shall have power to act as clerks of their respective courts if they shall so elect: *And provided further*, That this section shall not apply to the county of Clarke.

\* \* \*  
<sup>1</sup> Approved Jan. 18, 1865. (See Twelfth Reg. Sess. 1864-65, p. 22.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 505.—AN ACT REPEALING AN ACT ENTITLED "AN ACT MAKING COUNTY AUDITORS EX OFFICIO CLERKS OF PROBATE COURTS OF THEIR RESPECTIVE COUNTIES," PASSED JANUARY 18, 1865.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the act entitled "An act making county auditors *ex-officio* clerks of the probate courts of their respective counties,"<sup>2</sup> approved January 18, 1865, be and the same is hereby repealed

\* \* \*  
<sup>1</sup> Approved Jan. 17, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 112.) In effect from date.

<sup>2</sup> See No. 504, *supra*.



**No. 506.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY <sup>1</sup>**

§ 1. **Probate Judge: Election, Term, etc.**—SECTION 1. *Be it enacted, etc.* That there shall be elected at the next general election, and every two years thereafter, in each county in this Territory, one suitable person, who shall have the qualifications of an elector, who shall be styled the judge of the probate court, and the court hereby constituted shall be called the probate court, and such judge shall hold his office for two years and until his successor is duly elected and qualified. \* \* \*

§ 2. **Jurisdiction.**—SEC. 3. The said probate court shall have and possess the following powers: (1) Exclusive original jurisdiction within their respective counties in all cases relative to the probate of last wills and testaments (2) The granting of letters testamentary and of administration, and revoking the same. (3) The appointment and displacing guardians of orphans, minors and of persons of unsound mind. \* \* \*

§ 3. **Seal.**—SEC. 4 The said court shall provide and keep a suitable seal.

§ 4. **Court of Record.**—SEC. 5. That the court established by this act shall be a court of record, and shall keep just and faithful records of its proceedings, and shall have power to issue any and all writs which may be necessary to the exercise of its jurisdiction.

§ 5. **Terms.**—SEC. 6. A regular term of the probate court shall be held at the county seat of each county, commencing on the fourth Monday in January, April, July and October, for the transaction of all business of which said court has jurisdiction: *Provided, however,* That if the district court of the district embracing any county be in session at such time, the probate court of the county in which said district court is held shall stand adjourned until the first Monday of the ensuing month.<sup>2</sup>

§ 6. **Clerks.**—SEC. 7. The judges of the several probate courts in the Territory of Washington may act as clerks of said court and receive the fees for such clerical services, or they may appoint the clerk, who shall qualify in the same manner and be subject to the same restrictions as prescribed by law for clerks of the district court, and be entitled to receive the fees and emoluments as prescribed by law.

§ 7. **Process: How Attested.**—SEC. 8. All process issuing out of the probate court shall be attested by the clerk and sealed with the seal of the court, and shall be served in the same manner as process issuing out of the district court.

§ 8. **Orders, Decrees, etc.: How Enforced.**—SEC. 9. The probate court shall have the same power and authority under like restrictions and rules of law to enforce and execute their orders, rules, judgments and decrees, as the district courts of this Territory.

§ 9. **Disqualification of Judges.**—SEC. 11. No judge of the probate court shall sit on the determination of any cause or proceeding in which he is interested, or related within the fourth degree to either party, or in which he may have been counsel

§ 10. **When Cause Shall be Transferred.**—SEC. 12. If the judge be disqualified from any cause for sitting on the determination of any cause or proceeding pending before him, the same shall be certified with the original papers to the district court of the district including the county, which shall proceed thereon to final judgment and determination

<sup>1</sup> Approved Nov. 11, 1873. (See Fourth Bien. Sess. 1873, pp. 252, 328, 331.)

<sup>2</sup> See No. 512, *infra*.

§ 11. **Effect of Adjournment.**—SEC. 13. If said court shall not be held on the first day of the term, such court shall stand adjourned from day to day until the evening of the third day. If at that time the judge shall not have appeared and opened court, the same shall stand adjourned until the next regular term. Special adjourned terms may be held in continuation of the regular term, upon its being so ordered by the court in term time and entered upon the record of the court.

\* \* \* \* \*

§ 12. **Letters May Issue in Vacation.**—SEC. 15. Letters of administration or letters of guardianship may be granted, inventory or account of sale of property returned during term time or vacation, and be entered of record of the same day that such grant or return shall be made.\*

#### CHAPTER II.

§ 13. **Personal Notice: Substance of Citation.**—SEC. 16. Whenever personal notice is required by this act<sup>1</sup> to be given to any party to a proceeding in the probate court, and no other mode of giving notice is prescribed, it shall be given by citation, issued from the court, signed by the clerk and under the seal of the court, directed to the sheriff of the proper county, requiring him to cite such person to appear before the court or judge, as the case may be, at a time and place to be named in such citation. In the body of the citation shall be briefly stated the nature or character of the proceedings.

§ 14. **Service of Citation.**—SEC. 17. The officer to whom the citation is directed shall serve it by delivering a copy to the person or persons named therein, and shall return the original to the court according to its direction, endorsing thereon the time and manner of service.

§ 15. **Service of Citation.**—SEC. 18. In all cases in which citations are issued from the probate court they shall be served at least ten days before the first day of the term, except when issued from the court in cases where the law requires the judge to issue them upon his own motion, and he does so issue them, and in such cases they shall be served in sufficient time to allow the person served to be in attendance on the court, and may be made returnable on any day of the term.

§ 16. **Extent of Jurisdiction.**—SEC. 19. All orders, settlements, trials and other proceedings entrusted by this act to the probate court, shall be had or made in the county in which letters testamentary or of administration were granted.

#### CHAPTER XX

§ 17. **Appeals to District Court: Grounds for.**—SEC. 363. An appeal shall be allowed from the decision of the probate court to the district court in the cases following. (1) On granting or revoking letters testamentary or of administration or guardianship (2) On admitting a will to probate. (3) On revoking the probate or determining the validity of a will. (4) On setting apart property or making an allowance for a widow or child (5) On determination of the application for the sale or conveyance of real property. (6) On the settlement of an executor, administrator or guardian (7) On declaring, allowing, or rejecting the payment of a debt, legacy or distributive share of the estate (8) On all other final orders and decrees.

§ 18. **Limitation of Appeal.**—SEC. 364. At any time within sixty days after the same is made, and not later, any person interested in the estate of any deceased person may appeal to the district court from any order or decision of any probate judge or court made that affects said estate; said appeal shall be taken in the same manner, and like notice shall be given

\* See No. 512, *infra*.

as in cases of appeal from justices' courts to the several district courts of this Territory.

CHAPTER XXI.

§ 19. **Repealing Clause.**—SEC. 806. All acts and parts of acts heretofore enacted upon any of the subjects or matters herein contained be and the same are hereby repealed. And the foregoing shall be the code of practice and procedure in the probate courts of this Territory.

**No. 507.—AN ACT PRESCRIBING THE POWER AND DUTIES OF JUDGES AT CHAMBERS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. SEC 5. The judges of the probate court may, at chambers, appoint appraisers, receive inventories and accounts to be filed in the probate court, suspend the powers of executors, administrators (or executors) or guardians in the cases allowed by law, grant letters of administration or guardianship, approve claims and bonds, and direct the issuance from the probate court of all writs and process necessary in the exercise of their powers.

<sup>1</sup> (See Fourth Reg. Sess. 1875, p. 36.) In effect from "date of passage," but no date given.

**No. 508.—AN ACT IN RELATION TO THE DUTIES OF PROBATE JUDGES<sup>1</sup>**

§ 1. **Record of Original Petitions, etc.**—SECTION 1. *Be it enacted, etc.*, That it shall be the duty of the probate judges of the various counties of Washington Territory to file and record in the records of the probate courts all original petitions for the sale of real estate or personal property in the administration of any estate, and to enter at length all orders or decrees made upon such petitions or regarding the distribution of any estate admitted to probate, and all other original petitions concerning any estate during the course of its administration.

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 53.) All conflicting acts and parts of acts repealed.

**No. 509.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT IN RELATION TO THE DUTIES OF PROBATE JUDGES," APPROVED NOVEMBER 12, 1875<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the act of the legislative assembly approved November 12, 1875,<sup>2</sup> entitled "An act in relation to the duties of probate judges," be and the same is hereby repealed.

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 215.) In effect from date.

<sup>2</sup> See No. 508, *supra*.

**No. 510.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY," APPROVED NOVEMBER ELEVENTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-THREE.<sup>1</sup>**

§ 1. **Terms.**—SECTION. 1. *Be it enacted, etc.*, That the act of the legislative assembly approved November eleventh, one thousand eight hun-

<sup>1</sup> Approved Nov. 9, 1877 (See Sixth Bien. Sess. 1877, p. 209.) In effect from date.



dred and seventy-three, entitled "An act defining the jurisdiction and practice in the probate courts of Washington Territory,"<sup>2</sup> be and the same is hereby amended as follows, that is to say: Section six of said act shall be and the same is so amended as to read as follows: Section six. A regular term of the probate court shall be held at the county seat of each county commencing on the fourth Monday of January, March, May, July, September and November in each year, for the transaction of all business of which said court has jurisdiction: *Provided*, That if any district court be in session at such time the probate court of the county in which such district court is held shall stand adjourned until the first Monday after the close of such term of the district court.

\* \* \* \* \*

<sup>2</sup> See No. 506, *supra*.

**No. 511.—AN ACT TO FIX THE TIME FOR HOLDING THE REGULAR TERMS OF PROBATE COURTS.<sup>1</sup>**

§ 1. **Terms.**—SECTION 1. *Be it enacted, etc.*, That a regular term of the probate court of each county shall be held at the county seat thereof commencing on the fourth Monday in January, March, May, July, September and November in each year.

§ 2. **Repealing Clause.**—SEC. 2. That section six of chapter one of an act entitled "An act defining the jurisdiction and practice in the probate courts of Washington Territory," approved November 11, 1878,<sup>2</sup> and said section as amended by an act entitled "An act to amend an act entitled 'An act defining the jurisdiction and practice in the probate courts of Washington Territory,' approved November 11, 1878," which last act was approved November 9, 1877,<sup>3</sup> be and the same are hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 3, 1879. (See Seventh Bien. Sess. 1879, p. 147.) In effect from date.

<sup>2</sup> See No. 506, *supra*.

<sup>3</sup> See No. 510, *supra*.

**No. 512.—CHAPTER XCV—THE PROBATE COURT, ITS POWERS AND JURISDICTION.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 281, secs. 1297, 1300 to 1304, inclusive, 1306 to 1308, inclusive, 1310, 1311 to 1314, inclusive, 1678, 1879.) This No. is *verbatim* as No. 506, *supra*, except instead of § 5 of said No. read as follows: "A regular term of the probate court of each county shall be held at the county seat thereof commencing on the fourth Monday in January, March, May, July, September and November in each year," instead of (see <sup>2</sup>) § 12 (which is omitted), § 2 of No. 507, *supra*, appears *verbatim*, and § 13 of said No. at \* the words "by this act" are omitted. For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

## TITLE X.—DECEASED PERSONS.

## CHAPTER I.—RULES OF DESCENT

No. 513.—AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE.<sup>1</sup>§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

## XI.

§ 2. **To Whom Shall Descend.**—SEC 281. When any person shall die seized of any lands, tenements or hereditaments, or any right thereto, or entitled to any interest therein in fee simple or for the life of another, not having lawfully devised the same, they shall descend, subject to his debts, as follows: (1) In equal shares to his children, and to the issue of any deceased child, by right of representation, and if there be no child of the intestate living at the time of his death, his estate shall descend to all his other lineal descendants, and if all the same descendants are in the same degree of kindred to the intestate, they shall have the estate equally, otherwise they shall take according to representation. (2) If he shall leave no issue, his estate shall descend to his father. (3) If he shall leave no issue nor father, his estate shall descend in equal shares to his brothers and sisters and to the children of any deceased brother or sister, by right of representation. *Provided*, That if he shall leave a mother also, she shall take an equal share with the brothers and sisters. (4) If the intestate shall leave no issue nor father, and no brother nor sister living at his death, his estate shall descend to his mother to the exclusion of the issue of his deceased brothers or sisters. (5) If the intestate shall leave no issue, father, mother, brother or sister, his estate shall descend to his next of kin, in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote. *Provided, however*, (6) If any person shall die leaving several children, or leaving one child, and the issue of one or more others, and any such surviving child shall die under age, and not having been married, all the estate that came to the deceased child by inheritance from such deceased parent shall descend in equal shares to the other children of the same parent, and to the issue of any such other children who shall have died, by right of representation. (7) If at the death of such child who shall die under age, not having been married, all the other children of his said parent shall also be dead, and any of them shall have left issue, the estate that came to such child by inheritance from his said parent shall descend to all the issue of the other children of the same parent; and if all the said issue are in the same degree of kindred to the said child they shall share the estate equally, otherwise they shall take according to the right of representation. (8) If the intestate shall leave no kindred, his estate shall escheat to the Territory.

§ 3. **Rights of Illegitimate.**—SEC. 282. Every illegitimate child shall be considered an heir of his mother, and shall inherit her estate in whole or in part, as the case may be, in like manner as if he had been born in

<sup>1</sup> Passed April 14, 1854. (See First Reg. Sess. 1854, pp. 266, 303.)

lawful wedlock; but such illegitimate child shall not be allowed to claim, as representing his mother, any part of the estate of her kindred, either lineal or collateral.

**§ 4. Descent of Estate of Illegitimate.**—SEC. 233. If any illegitimate child shall die intestate without lawful issue, his estate shall descend to his mother, except in the case provided for in the following section.

**§ 5. How Illegitimate Legitimized.**—SEC. 234. When after the birth of an illegitimate child his parents shall intermarry, and his father after the marriage shall acknowledge him as his child, such child shall be considered legitimate to all intents and purposes.

**§ 6. Degrees of Kindred: How Computed.**—SEC. 235. The degrees of kindred shall be computed according to the rules of the civil law, and the kindred of the half blood shall inherit equally with those of the whole blood in the same degree.

**§ 7. Effect of Advancements.**—SEC. 236. Any estate, real or personal, that may have been given by the intestate in his lifetime as an advancement to any child or other lineal descendant, shall be considered a part of the intestate's estate so far as regards the division and distribution thereof among his issue, and shall be taken by such child or other descendant toward his share of the intestate's estate.

**§ 8. When Advancement More or Less Than Share.**—SEC. 237. If the amount of such advancement shall exceed the share of the heir so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any part of such advancement; and if the amount so received shall be less than his share, he shall be entitled to so much more as will give him his full share of the estate of the deceased.

**§ 9. Advancements in Real Estate.**—SEC. 238. If any such advancement shall have been made in real estate, the value thereof shall, for the purposes of the preceding section, be considered as part of the real estate to be divided; and if it be in personal estate, and if in either case it shall exceed the share of real or personal estate, respectively, that would have come to the heir so advanced, he shall not refund any part of it, but shall receive so much less out of the other part of the estate as will make the whole share equal to those of the other heirs who are in the same degree with him.

**§ 10. Gifts and Grants Deemed Advancements.**—SEC. 239. All gifts and grants shall be deemed to have been made in advancement if expressed in the gift or grant to be so made, or if charged in writing by the intestate as an advancement, or acknowledged in writing as such by the child or other descendant.

**§ 11. Value of Advancements: How Ascertained.**—SEC. 240. If the value of the estate so advanced shall be expressed in the conveyance or in the charge thereof made by the intestate, or in the acknowledgment by the party receiving it, it shall be considered of that value in the division and distribution of the estate; otherwise it shall be estimated at its value when given.

**§ 12. Death of Heir Before Intestate: Effect on Advancements.**—SEC. 241. If any child or lineal descendant so advanced shall die before the intestate, leaving issue, the advancement shall be taken into consideration in the division and distribution of the estate, and the amount thereof shall be allowed accordingly by the representatives of the heir so advanced as so much received towards their share of the estate, in like manner as if the advancement had been made directly to them.

**§ 13. Curtesy and Dower Not Affected.**—SEC. 242. Nothing contained in this act shall affect the title of a husband as tenant by courtesy, nor that of a widow as tenant in dower.



§ 14. "Issue," "Real Estate," "Inheritance by Right of Representation," Defined.—SEC. 248. The word "issue" as used in this act includes all the lawful lineal descendants of the ancestor; and the words "real estate" include all lands, tenements and hereditaments, and all rights thereto, and all interests therein possessed and claimed in fee simple, or for the life of a third person. "Inheritance or succession by right of representation" takes place when the descendants of any deceased heir take the same share or right in the estate of another person that their parent would have taken if living. Posthumous children are considered as living at the death of their parent.

\* \* \* \* \*

**No. 514.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE."**<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **To Whom Shall Descend in Certain Case—Escheat.**—SEC. 5. That section two hundred and thirty-one<sup>2</sup> of the same act be amended in the third clause that it shall read: "If he shall leave no issue nor father, his estate shall descend to his mother, and if he shall leave no mother, then his estate shall descend in equal shares to his brothers and sisters, and to the children of any deceased brother or sister, by right of representation." And the eighth clause of the same section shall be so amended as to read: "If the intestate shall leave no kindred, his estate shall escheat to the county in which such estate shall be situated."

\* \* \* \* \*

<sup>1</sup> Passed Jan. 29, 1857. (See Fourth Reg. Sess. 1856-57, p. 23.)

<sup>2</sup> See No. 513, § 2, *supra*.

**No. 515.—AN ACT TO CONSTRUER AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED 'AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE.'"**<sup>1</sup>

§ 1. **Escheat.**—SECTION 1. *Be it enacted, etc.*, That sections five and six<sup>2</sup> of the act to which this is an amendment shall be so construed that all property of intestates who left no kindred, which had not at the time of the passage of said act been formally delivered up to the Territory according to law, shall belong to the county in which the estate is situated.

<sup>1</sup> Passed Jan. 11, 1859. (See Sixth Reg. Sess. 1858-59, p. 7.)

<sup>2</sup> "Sections five and six" of the act referred to relate to appointment and duties of executors (See No. 527, § 3, *infra*), and do not seem to have any bearing upon the subject-matter of this No. Cf. No. 513, *supra*, § 2, fifth and sixth clauses.

**No. 516.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.**<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER XIV.

§ 2. **To Whom Shall Descend.**—SEC. 306. When any person shall die seized of any lands, tenements or hereditaments, or any right thereto, or entitled to any interest therein, in fee simple or for the life of another,

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, pp. 165, 220.) For repealing clause, etc., see No. 501, *supra*.

not having lawfully devised the same, they shall descend, subject to his debts, as follows: (1) In equal shares to his children, and to the issue of any deceased child by right of representation, and if there be no child of the intestate living at the time of his death, his estate shall descend to all his other lineal descendants, and if all the same descendants are in the same degree of kindred to the intestate, they shall have the estate equally, otherwise they shall take according to representation. (2) If he shall leave no issue, his estate shall descend to his father. (3) If he shall leave no issue nor father, his estate shall descend in equal shares to his brothers and sisters, and to the children of any deceased brother or sister, by right of representation. *Provided*, That if he shall leave a mother also, she shall take an equal share with the brothers and sisters. (4) If the intestate shall leave no issue nor father, and no brother nor sister living at his death, his estate shall descend to his mother, to the exclusion of the issue of his deceased brothers or sisters. (5) If the intestate shall leave no issue, father, mother, brother or sister, his estate shall descend to his next of kin, in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote. *Provided, however,* \* (6) If any person shall die leaving several children, or leaving one child, and the issue of one or more others, and any such surviving child shall die under age and not having been married, all the estate that came to the deceased child by inheritance from such deceased parent shall descend in equal shares to the other children of the same parent, and to the issue of any such other children who shall have died, by right of representation. (7) If at the death of such child who shall die under age, not having been married, all the other children of said parent \* shall also be dead, and any of them shall have left issue, the estate that came to such child by inheritance from his said parent shall descend to all the issue of the other children of the same parent, and if all the said issue are in the same degree of kindred to the said child, they shall share the estate equally; otherwise they shall take according to the right of representation. (8) If the intestate shall leave no kindred, his estate shall escheat to the county in which such estate may be situate.

**§ 3. Illegitimate Child: Rights of—How Legitimized.—SEC. 807.** Every illegitimate child shall be considered as an heir of the person who shall in writing, signed in the presence of a competent witness, have acknowledged himself to be the father of such child, and shall in all cases be considered as heir of his mother, and shall inherit his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock, but he shall not be allowed to claim, as representing his father or mother, any part of the estate of his or her kindred, either lineal or collateral, unless before his death his parents shall have intermarried, and his father after such marriage shall have acknowledged him as aforesaid and adopted him into his family, in which case such child and all the legitimate children shall be considered as brothers and sisters, and on the death of either of them intestate and without issue the others shall inherit his estate and he theirs, as hereinbefore provided, in like manner as if all the children had been legitimate, saving to the father and mother, respectively, their rights in the estate of all the said children, as provided hereinbefore, in like manner as if all had been legitimate. The issue of all marriages deemed null in law or dissolved by divorce shall be legitimate.

**§ 4. Descent of Estate of Illegitimate.—SEC. 808.** If any illegitimate child shall die intestate, without lawful issue, his estate shall descend to his mother, or in case of her decease to her heirs at law.

\* See No. 517, in/rn

§ 5. **Degrees of Kindred: How Computed.**—SEC. 309. The degrees of kindred shall be computed according to the rules of the civil law, and the kindred of the half blood shall inherit equally with those of the whole blood, in the same degree.

§ 6. **Effect of Advancement.**—SEC. 310. Any estate, real or personal, that may have been given by the intestate in his lifetime, as an advancement to any child or other lineal descendant, shall be considered a part of the intestate's estate, so far as regards the division and distribution thereof among his issue, and shall be taken by such child or other descendant towards his share of the intestate's estate.

§ 7. **When Advancements More or Less Than Share.**—SEC. 311. If the amount of such advancement shall exceed the share of the heir so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any part of such advancement; and if the amount so received shall be less than his share, he shall be entitled to so much more as will give him his full share of the estate of the deceased.

§ 8. **Advancements in Real Estate.**—SEC. 312. If any such advancement shall have been made in real estate, the value thereof shall, for the purposes of the preceding section, be considered as part of the real estate to be divided; and if it be in personal estate, and if in either case it shall exceed the share of real or personal estate, respectively, that would have come to the heir so advanced, he shall not refund any part of it, but shall receive so much less out of the other part of the estate as will make the whole share equal to those of the other heirs who are in the same degree with him.

§ 9. **Gifts and Grants Deemed Advancements.**—SEC. 313. All gifts and grants shall be deemed to have been made in advancement, if expressed in the gift or grant to be so made, or if charged in writing by the intestate as an advancement, or acknowledged in writing as such by the child or other descendant.

§ 10. **Value of Advancements: How Ascertained.**—SEC. 314. If the value of the estate so advanced shall be expressed in the conveyance, or in the charge thereof made by the intestate, or in the acknowledgment by the party receiving it, it shall be considered of that value in the division and distribution of the estate; otherwise it shall be estimated at its value when given.

§ 11. **Death of Heir Before Intestate: Effect on Advancements.**—SEC. 315. If any child or lineal descendant so advanced shall die before the intestate, leaving issue, the advancement shall be taken into consideration in the division and distribution of the estate, and the amount thereof shall be allowed accordingly by the representatives of the heir so advanced as so much received towards their share of the estate, in like manner as if the advancement had been made directly to them.

§ 12. **"Issue," "Real Estate," Defined.**—SEC. 316. The word "issue," as used in this act, includes all the lawful lineal descendants of the ancestor, and the words "real estate" include all lands, tenements and hereditaments, and all rights thereto, and all interests therein possessed and claimed in fee simple or for the life of a third person.

§ 13. **"Inheritance by Right of Representation" Defined.**—SEC. 317. "Inheritance or succession by right of representation" takes place when the descendants of any deceased heir take the same share or right in the estate of another person that their parent would have taken if living. Posthumous children are considered as living at the death of their parent.

§ 14. **Curtsey and Dower Not Affected.**—SEC. 318. The provisions of this act shall in no way affect the title of a husband as tenant by the courtesy, nor that of a widow as tenant in dower.

\* See No. 317, *infra*.



**No. 517.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 196, 340, chap. 17.) This No. is *verbatim* as No. 516, *supra*, except § 2 of said No. at 2 omit "*provided, however,*" and at 3 instead of "said parent" read "such parent," and § 10 at 4 instead of "acknowledgment by the party" read "acknowledgment of the party." All conflicting acts and parts of acts repealed. In effect from date.

**No. 518.—AN ACT TO REGULATE THE DESCENT OF REAL ESTATE AND THE DISTRIBUTION OF PERSONAL PROPERTY.<sup>1</sup>**

§ 1. **To Whom Shall Descend.**—SECTION 1. *Be it enacted, etc.,* When any person shall die seized of any lands, tenements or hereditaments, or any right thereto, or entitled to any interest therein, in fee simple or for the life of another, not having devised the same, they shall descend, subject to the debts, as follows: (1) If the decedent leaves a surviving husband or wife and only one child, or the lawful issue of one child, in equal shares to the surviving husband or wife and child, or issue of such child. If the decedent leaves a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one-third to the surviving husband or wife, and the remainder in equal shares to his children and to the lawful issue of any deceased child by right of representation. If there be no child of the decedent living at his death, the remainder goes to all of his lineal descendants, and if all the descendants are in the same degree of kindred to the decedent, they share equally, otherwise they take according to the right of representation. (2) If the decedent leaves no issue, the estate goes in equal shares to the surviving husband or wife and to the decedent's father and mother, if both survive. If there be no father or mother, then one-half goes in equal shares to the brothers and sisters of the decedent and to the children of any deceased brothers or sisters by right of representation. If decedent leaves no issue, nor husband nor wife, the estate must go to his father and mother. (3) If there be no issue, nor husband nor wife, nor father and mother, nor either, then in equal shares to the brothers and sisters of the decedent, and to the children of any deceased brother or sister by right of representation. (4) If the decedent leaves a surviving husband or wife and no issue, and no father nor mother, nor brother, nor sister, the whole estate goes to the surviving husband or wife. (5) If the decedent leaves no issue, nor husband nor wife, and no father nor mother, nor brother nor sister, the estate must go to the next of kin, in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claimed through the nearest ancestor must be preferred to those claiming through an ancestor more remote. *However,* (6) If the decedent leaves several children, or one child and the issue of one or more other children, and any such surviving child dies under age, and not having been married, all the estate that comes to the deceased child by inheritance from such decedent descends in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by right of representation. (7) If at the death of such child who dies under age, not having been married, all the other children of his parents are also dead, and any of them have left issue, the estate that came to such child by inheritance from his parent descends to the issue of all other children of the same parent, and if all the issue are in the same degree of kindred to the child, they share the estate equally; otherwise they take according to the right of representa-

<sup>1</sup> Approved Nov. 12, 1873. (See Fifth Blen. Sess. 1873, p. 53.) In effect from date. All acts and parts of acts "upon any subject-matter herein provided for" are repealed.

tion. (8) If the decedent leaves no husband, wife or kindred, the estate escheats to the Territory, for the support of common schools, in the county in which the decedent resided during lifetime, or where the estate may be situated.

**§ 2. Community Property.**—SEC. 2. Upon the death of husband or wife the whole of the community property, subject to the community debts, shall go to the survivor, but nothing herein contained shall be construed to conflict with laws exempting property from attachment and execution, and especially the provision securing the homestead to the survivor, and all property except as an allowance for support of the family.<sup>2</sup>

**§ 3. Limitation of Descent—Dower and Curtesy Abolished.**—SEC. 3. The provisions of section one, as to the inheritance of the husband and wife from each other, apply only to the separate property of the decedents, and takes the place of tenancy in dower and tenancy by the courtesy, which are hereby abolished.

**§ 4. Illegitimate Child: Rights of—How Legitimized.**—SEC. 4. Every illegitimate child shall be considered as an heir to the person who shall, in writing, signed in the presence of a competent witness, have acknowledged himself to be the father of such child, and shall in all cases be considered as heir of his mother, and shall inherit his or her estate in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock; but he shall not be allowed to claim, as representing his father or mother, any part of the estate of his or her kindred, either lineal or collateral, unless before his death his parents shall have intermarried, and his father after such marriage shall have acknowledged him as aforesaid, and adopted him into his family; in which case such child and all the legitimate children shall be considered as brothers and sisters, and on the death of either of them intestate and without issue, the others shall inherit his estate and he theirs, as heretofore provided, in like manner as if all the children had been legitimate, saving to the father and mother respectively their rights in the estates of all the said children, as provided heretofore, in like manner as if all had been legitimate.

**§ 5. Descent of Estate of Illegitimate.**—SEC. 5. If any illegitimate child shall die intestate without lawful issue, his estate shall descend to his mother, or in case of her decease, to her heirs at law.

**§ 6. Degrees of Kindred: How Computed.**—SEC. 6. The degree of kindred shall be computed according to the rules of the civil law, and the kindred of the half blood shall inherit equally with those of the whole blood, in the same degree.

**§ 7. Effect of Advancements.**—SEC. 7. Any estate, real or personal, that may have been given by the intestate in his lifetime as an advancement to any child or other lineal descent, shall be considered a part of the intestate's estate so far as regards the division and distribution thereof among his issue, and shall be taken by such child or other descendant toward his share of the intestate's estate.

**§ 8. When Advancements More or Less Than Share.**—SEC. 8. If the amount of such advancement there exceed the share of the heir so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any part of such advancement; and if the amount so received shall be less than his share, he shall be entitled to so much more as will give him his full share of the estate of the deceased.

**§ 9. Advancements in Real Estate.**—SEC. 9. If any such advancement shall have been made in real estate, the value thereof shall, for the purposes of the preceding section, be considered as part of the real estate

<sup>2</sup> See No. 519, *infra*.

to be divided, and if it be in personal estate, and if in either case it shall exceed the share of real or personal estate, respectively, that would have come to the heir so advanced, he shall not refund any part of it, but shall receive so much less out of the other part of the estate as will make the whole share equal to those of the other heirs who are in the same degree with him.

**§ 10. Gifts and Grants Deemed Advancements.**—SEC. 10. All gifts and grants shall be deemed to have been made in advancement if expressed in the gift or grant to be so made, or if charged in writing by the intestate as an advancement, or acknowledged in writing as such by the child or other descendant.

**§ 11. Value of Advancements: How Ascertained.**—SEC. 11. If the value of the estate so advanced shall be expressed in the conveyance, or in the charge thereof made by the intestate, or in the acknowledgment by the party receiving it, it shall be considered of that value in the division and distribution of the estate; otherwise it shall be estimated at its value when given.

**§ 12. Death of Heir Before Intestate: Effect on Advancements.**—SEC. 12. If any child or lineal descendant so advanced shall die before the intestate, leaving issue, the advancement shall be taken into consideration in the division and distribution of estate, and the amount thereof shall be allowed accordingly by the representatives of the heir so advanced, as so much received towards their share of the estate, in like manner as if the advancement had been made directly to them.

**§ 13. "Issue," "Real Estate," Defined.**—SEC. 13. The word "issue," as used in this act, \* includes all the lawful lineal descendants of the ancestor, and the words "real estate" include all lands, tenements and hereditaments, and all rights thereto, and all interests therein possessed and claimed in fee simple or for the life of a third person.

**§ 14. "Inheritance by Right of Representation" Defined.**—SEC. 14. Inheritance or succession by right of representation takes place when the descendants of any deceased heir take the same share or right in the estate of another that their parent would have taken if living. Posthumous children are considered as living at the death of their parent.

\* \* \* \* \*

\* See No. 519, *infra*.

#### **No. 519.—CHAPTER CCLII.—DESCENT OF REAL ESTATE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 574.) This No. is *verbatim* as No. 518, *supra*, except § 4 of said No. at \* "all" is omitted, and § 13 at \* instead of "act" read "chapter," and instead of § 2 of said No. (see 2) read as follows: "Upon the death of either husband or wife, one-half of the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts. In case no testamentary disposition shall have been made by the deceased husband or wife of his or her half of the community property, it shall descend equally to the legitimate issue of his, her or their bodies. If there be no issue of said deceased living or none of their representatives living, then the said community property shall all pass to the survivors, to the exclusion of collateral heirs, subject to the community debts, the family allowance and the charges and expenses of administration." For repealing clause, date in effect, etc., see Nos. 320, 330, 340.

#### **No. 520.—AN ACT TO ABOLISH THE RIGHT OF SURVIVORSHIP IN ESTATES HELD IN JOINT TENANCY.<sup>1</sup>**

**§ 1. Property of Joint Tenants.**—*Be it enacted, etc.* SECTION 1. That if partition be not made between joint tenants, the parts of those who die

<sup>1</sup> Approved Dec. 23, 1885. (See Tenth Bienn. Sess. 1885-86, p. 165.) All conflicting acts and parts of acts repealed. In effect from date.



first shall not accrue to the survivors, but descend, or pass by devise, and shall be subject to debts and other legal charges, or transmissible to executors or administrators, and be considered to every intent and purpose in the same view as if such deceased joint tenants had been tenants in common: *Provided*, That community property shall not be affected by this act.

\* \* \* \* \*

## CHAPTER II.—WILLS.

### No. 521.—AN ACT RELATING TO WILLS.<sup>1</sup>

§ 1. **Who May Devise: How.**—SECTION 1. *Be it enacted, etc.*, That every person of twenty-one years of age and upwards, of sound mind, may by last will devise all his estate, real and personal, saving to the widow her dower.

\* \* \* \* \*

§ 2. **Married Woman May Devise.**—SEC. 3. A married woman may by will dispose of any real estate held in her own right, subject to any rights which her husband may have as tenant by courtesy.

§ 3. **What Constitutes a Will.**—SEC. 4. Every will shall be in writing, signed by the testator or by some other person under his direction in his presence, and shall be attested by two or more competent witnesses subscribing their names to the will in the presence of the testator.

§ 4. **Witness May Sign Testator's Name: How.**—SEC. 5. Every person who shall sign the testator's name to any will by his direction, shall subscribe his own name as a witness to such will, and state that he subscribed the testator's name at his request.

§ 5. **How Will Revoked.**—SEC. 6. No will in writing, except in cases hereinafter mentioned, nor any part thereof, shall be revoked except by a subsequent will in writing, or by burning, canceling, tearing, or obliterating the same by the testator, or in his presence, and by his consent and direction.

§ 6. **Marriage After Making Will, Issue Living, Deemed Revocation—Exception.**—SEC. 7. If after making a will disposing of the whole estate of the testator, such testator shall marry and die leaving issue by such marriage living at the time of his death, or shall leave issue of such marriage born to him after his death, such will shall be deemed revoked unless provision shall have been made for such issue by some settlement, or unless such issue shall be provided for in the will, and no evidence shall be received to rebut the presumption of such revocation.

§ 7. **Marriage of Unmarried Woman Deemed Revocation.**—SEC. 8. A will made by an unmarried woman shall be deemed revoked by her subsequent marriage.

§ 8. **Bond, etc., for Conveyance by Testator Not Deemed Revocation—Specific Performance.**—SEC. 9. A bond, covenant or agreement made for a valuable consideration by a testator to convey any property, devised or bequeathed in any last will previously made, shall not be deemed a revocation of such previous devise or bequest, either in law or equity; but such property shall pass by the devise or bequest, subject to the same

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 312.)

remedies on such bond, covenant, or agreement, for the specific performance or otherwise against devisees or legatees as might be had by law against the heirs of the testator or his next of kin if the same had descended to them.

§ 9. **Effect of Charge or Incumbrance.**—SEC. 10. A charge or incumbrance upon any real or personal estate for the purpose of securing the payment of money or the performance of any covenant or agreement shall not be deemed a revocation of any will relating to the same estate previously executed. The devises and legacies therein contained shall pass and take effect subject to such charge or incumbrance.

§ 10. **Effect as to Certain Persons Not Named.**—SEC. 11. If any person make his last will and die leaving a child or children, or descendants of such child or children, in case of their death, not named or provided for in such will, although born after the making of such will, or the death of the testator, every such testator, so far as he shall regard such child or children or their descendants, not provided for shall be deemed to die intestate, and such child or children or their descendants shall be entitled to such proportion of the estate of the testator, real and personal, as if he had died intestate, and the same shall be assigned to them and all the other heirs, devisees and legatees shall refund their proportional part.

§ 11. **Effect of Advancements During Life.**—SEC. 12. If such child or children or their descendants shall have an equal proportion of the testator's estate bestowed on them in the testator's lifetime by way of advancement, they shall take nothing by virtue of the provision of the preceding section.

§ 12. **Effect of Death of Devisee Before Testator.**—SEC. 13. When any estate shall be devised to any child, grandchild or other relative of the testator, and such devisee shall die before the testator, leaving lineal descendants, such descendants shall take the estate, real and personal, as such devisee would have done in case he had survived the testator.

§ 13. **Destruction, etc., of Second Will Does Not Necessarily Revive Former.**—SEC. 14. If after making any will the testator shall duly make and execute a second will, the destruction, canceling or revocation of such second will shall not revive the first will, unless it appears by the terms of such revocation that it was his intention to revive and give effect to the first will, or unless he shall duly republish his first will.

§ 14. **Probate Court Shall Take Proof.**—SEC. 15. The probate court shall take proof of last wills.

§ 15. **Venue.**—SEC. 16. If the testator have a mansion house, or known place of abode, in any county, his will shall there be proved; if he have no place of residence, and lands be devised, it shall be proved in the county where any part of the lands lie, and if he have no residence, and there be no lands devised, the will shall be proved in the county in which the testator died, or if he died out of the Territory, then in any county.

§ 16. **Certificate of Probate, or Rejection.**—SEC. 17. When any will is exhibited to be proven, the court may immediately receive the proof and grant a certificate of probate, or if such will be rejected, grant a certificate of rejection.

§ 17. **If Witness Absent, etc., Who May Certify Attestation.**—SEC. 18. If any witness be prevented by sickness from attending at the time when any will may be produced for probate, or reside out of the Territory, or more than thirty miles from the place where the will is to be proven, such court may issue a commission annexed to such will, and directed to any judge, justice of the peace or mayor, or other person, empowering him to take and certify the attestation of such witness.

§ 18. **Effect of Such Certificate.**—SEC. 19. If such witness appear before such officers, and make oath or affirmation that the testator signed

the writing annexed to such commission as his last will, or that some other person signed it by his direction and in his presence, that he was of sound mind, that the witness subscribed his name thereto in the presence of the testator, the testimony so taken shall have the same force as if taken before the court.

**§ 19. If One Witness be Dead, etc., How Signatures of Others Proved.**—SEC. 20. When one of the witnesses to such will shall be examined, and the other witnesses are dead, insane or their residence unknown, then such proof shall be taken of the handwriting of the testator, and of the witnesses dead, insane or residence unknown, and of such other circumstances as would be sufficient to prove such will on a trial at common law.

**§ 20. If All Dead, How Proved.**—SEC. 21. If it shall appear to the satisfaction of the court that all the subscribing witnesses are dead, insane or their residence unknown, the court shall take and receive such proof of the handwriting of the testator and subscribing witnesses to the will, and of such other facts and circumstances as would be sufficient to prove such will in a trial at law.

\* \* \* \* \*

**§ 21. Nuncupative Will: What Constitutes.**—SEC. 23. No nuncupative will shall be good when the estate bequeathed exceeds the value of two hundred dollars, nor unless the same be proven by two witnesses, who were present at the making thereof, nor unless it be proven that the testator, at the time of pronouncing the same, did bid some person present to bear witness that such was his will, or to that effect; nor unless such nuncupative will was made at the time of the last sickness, and at the dwelling house of the deceased, or where he had been residing for the space of ten days or more, except where such person was taken sick from home and died before his return.

\* \* \* \* \*

**§ 22. Nuncupative Will: Limitation of Proof.**—SEC. 25. No proof shall be received of any nuncupative will unless it be offered within six months after speaking the testamentary words, nor unless the words, or the substance thereof, be first committed to writing and a citation issued accompanied with a copy thereof, to call the widow or next of kin of the deceased, that they may contest the will if they think proper.

**§ 23. Recording.**—SEC. 26. All wills shall be recorded by the probate judge, in a book kept for that purpose, within thirty days after probate, and the originals shall be carefully filed.

\* \* \* \* \*

**§ 24. Recording, When Land in Different Counties.**—SEC. 29. In all cases where lands devised by last will are situated in different counties, a copy of such will shall be recorded in the recorder's office in each county within six months after probate.

**§ 25. Contest: Limitation of, Five Years.**—SEC. 30. If any person interested in the probate of any will shall appear within five years after the probate or rejection thereof, and by petition to the district court for the county contest the validity of the will, or pray to have the will proven which has been rejected, an issue shall be made up whether the writing produced be the will of the testator or not, which shall be tried by a jury, or if neither party require a jury, by the court.

**§ 26. Finding or Judgment, Final.**—SEC. 31. The verdict of the jury or the finding and judgment of the court shall be final, saving to the court the right of granting a new trial as in other cases, and to either party an appeal, in matters of law, to the supreme court.

**§ 27. On Whom Binding.**—SEC. 32. If no person shall appear within the time aforesaid, the probate or rejection of such will shall be binding, saving to infants, married women, persons absent from the United States



or of unsound mind, a like period of five years after their respective disabilities are removed.

\* \* \* \* \*

§ 28. **Foreign Wills.**—SEC. 34. Any person not an inhabitant but owning property, real or personal, in this Territory, may devise or bequeath such property by last will, executed and proved (if real estate be devised) according to the laws of this Territory, or (if personal estate be bequeathed) according to the laws of this Territory or of the country, state or territory in which the will shall be proved.

§ 29. **Copies Shall be Recorded.**—SEC. 35. Copies of such will, and the probate thereof, shall be recorded in the same manner as wills executed and proven in this Territory, and shall be admitted in evidence in the same manner and with like effect.

§ 30. **How Contested.**—SEC. 36. Any such will may be contested and annulled within the same time and in the same manner as wills executed and proven in this Territory.

§ 31. **Witness Having Beneficial Interest.**—SEC. 37. If any person has attested, or shall attest, the execution of any will to whom any beneficial devise, legacy, estate, interest, gift or appointment of, or affecting any real or personal estate other than or except charges in lands, tenements or hereditaments for the payment of any debt or debts, shall be thereby given or made, such devise, legacy, estate, gift or appointment shall, so far only as concerns such person attesting the execution of such will, or any person claiming under him, be void; and such person shall be admitted as a witness to the execution of such will.

§ 32. **How Share Saved to Such Witness.**—SEC. 38. If any such witness would be entitled to any share in the testator's estate, in case the will should not be established, then so much of the estate as would have descended, or would have been distributed to such witness, shall be saved to him as will not exceed the value of the devise or bequest made to him in the will; and he may recover the same from the devisees or legatees named in the will, in proportion to and out of the parts devised and bequeathed to him.

§ 33. **In What Case Such Will Valid.**—SEC. 39. If the execution of such will be attested by a sufficient number of other competent witnesses as required by this act, then such devise, legacy, interest, estate, gift or appointment shall be valid.

§ 34. **Effect of Creditor as Witness.**—SEC. 40. If by any will any real estate be charged with any debt, and any creditor, whose debt is so charged, has attested the execution of such will, every such creditor shall be admitted as a witness to the execution of such will.

§ 35. **When Legatee May be Witness.**—SEC. 41. If any person has attested, or shall attest, the execution of any will to whom any legacy or bequest is thereby given, and such person, before giving testimony concerning the execution of such will, shall have been paid or have accepted or released, or shall refuse to accept such bequest or legacy, upon tender thereof, such person shall be admitted as a witness to the execution of such will.

§ 36. **Credit of Such Witness.**—SEC. 42. The credit of such witness shall be subject to the consideration of the court or jury.

§ 37. **Legatee as Witness in Certain Cases.**—SEC. 43. If any legatee or devisee who has attested, or shall attest, the execution of any will, shall have died, or die in the lifetime of the testator, or before he shall have received or released the legacy or bequest so given to him, and before he shall have refused to receive such legacy or bequest, on a tender made thereof, such legatee or devisee shall be deemed a legal witness to the execution of such will.

**§ 38. Legatees Acting as Witnesses Must Make Bona Fide Refusal.**

—SEC. 44. No person to whom any estate, gift or appointment shall be given or made, which is hereby declared to be null and void, or who shall have refused to receive such legacy or bequest upon tender made, and who shall have been examined as a witness concerning the execution of such will, shall, after he has been so examined, demand or receive, except as is provided in the thirty-eighth section, any profit or benefit of or from any such estate, interest, gift or appointment so given or made to him by any such will, or demand, receive or accept from any person any such legacy or bequest or any satisfaction or compensation for the same.

**§ 39. Estate for Life With Remainder.**—SEC. 45. If any person by last will devise any real estate to any person for the term of such person's life, and after his or her death, his or her children, or heirs, or right heirs in fee, such devise shall vest an estate for life only in such devisees, and remainder in fee simple in such children.

**§ 40. "Heirs," etc., Not Necessary to Create Fee Simple.**—SEC. 46. In all devises of lands or other estate in this Territory in which the words "heirs and assigns" or "heirs and assigns forever" are omitted, and no expressions are contained in such will whereby it shall appear that such devise was intended to convey an estate for life only, and no farther devise be made of the devised premises to take effect after the death of the devisee, to whom the same shall be given, it shall be understood to be the intention of the testator thereby to devise an absolute estate in the same, and shall convey an estate in fee simple to the devisee for all such devised premises.

**§ 41. When Contribution Necessary.**—SEC. 47. When any testator in his last will shall give any chattel or real estate to any person and the same shall be taken in execution for the payment of the testator's debts, then all the other legatees, devisees and heirs shall refund their proportional part of such loss to such person from whom the bequest shall be taken.

**§ 42. How Contribution Enforced.**—SEC. 48. When any devisees, legatees or heirs shall be required to refund any part of the estate received by them for the purpose of making up the share, devise or legacy of any other devisee, legatee or heir, the probate court, upon the petition of the person entitled to contribution or distribution of such estate, shall order the same to be made according to equity, and enforce such order with like effect as decrees in courts of equity.

**§ 43. Term "Will."**—SEC. 49. The term "will," as used in this act, shall be so construed as to include all codicils as well as wills.

**§ 44. How Will Construed.**—SEC. 50. All courts and others concerned in the execution of last wills, shall have due regard to the direction of the will, and the true intents and meaning of the testator in all matters brought before them.

**§ 45. Date in Effect.**—SEC. 52. This act shall take effect and be in force from and after the first day of May next.

**No. 522.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

CHAPTER II.

**§ 2. Who May Devise: How.**—SEC. 18. Every person who shall have attained the age of majority, of sound mind, may, by last will, devise all

<sup>1</sup> Passed Jan. 27, 1860. (See Sixth Reg. Sess. 1859-60, pp. 165, 169.) For repealing clause see No. 501, §§ 13 to 18, *supra*.

his estate, real and personal. This section shall not be construed as depriving a widow of her dower nor a husband of his interest as tenant by the courtesy.

§ 3. **Married Woman May Devise.**—SEC. 19. A married woman may, by will, dispose of any real estate held in her own right, subject to any rights which her husband may have as tenant by courtesy.

§ 4. **What Constitutes a Will.**—SEC. 20. Every will shall be in writing, signed by the testator or by some other person under his direction in his presence, and shall be attested by two or more competent witnesses subscribing their names to the will in the presence of the testator.

§ 5. **Witness May Sign Testator's Name: How.**—SEC. 21. Every person who shall sign the testator's name to any will by his direction, shall subscribe his own name as a witness to such will, and state that he subscribed the testator's name at his request.

§ 6. **How Will Revoked.**—SEC. 22. No will in writing, except in cases hereinafter mentioned, nor any part thereof, shall be revoked except by a subsequent will in writing or by burning, canceling, tearing or obliterating the same by the testator, or in his presence or by his consent and direction.

§ 7. **Marriage After Making Will Deemed Revocation: Exception.**—SEC. 23. If after making any will the testator shall marry and the wife shall be living at the death of the testator, such will shall be deemed revoked, unless provision shall have been made for her by marriage contract, or unless she shall be provided for in the will or in such way mentioned therein as to show an intention not to make such provision, and no other evidence to rebut the presumption of revocation shall be received.

§ 8. **Marriage of Unmarried Woman Deemed Revocation.**—SEC. 24. A will made by an unmarried woman shall be deemed revoked by her subsequent marriage.

§ 9. **Bond, etc., for Conveyance by Testator Not Deemed Revocation—Specific Performance.**—SEC. 25. A bond, covenant or agreement made for a valuable consideration by a testator to convey any property, devised or bequeathed in any last will, previously made, shall not be deemed a revocation of such previous devise or bequest, either in law or equity; but such property shall [pass] by the devise[r] or bequest, subject to the same remedies on such bond, covenant or agreement for specific performance, or otherwise against devisees or legatees, as might be had by law against the heirs of the testator or his next of kin if the same had descended to them.

§ 10. **Effect of Charge or Encumbrance.**—SEC. 26. A charge or encumbrance upon any real or personal estate for the purpose of securing the payment of money or the performance of any covenant or agreement, shall not be deemed a revocation of any will relating to the same estate previously executed. The devises and legacies therein contained shall pass and take effect subject to such charge or encumbrance.

§ 11. **Effect as to Certain Persons Not Named.**—SEC. 27. If any person make his last will and die leaving a child or children, or descendants of such child or children, in case of their death, not named or provided for in such will, although born after the making of such will, or the death of the testator, every such testator, so far as he shall regard such child or children, or their descendants, not provided for, shall be deemed to die intestate, and such child or children, or their descendants, shall be entitled to such proportion of the estate of the testator, real and personal, as if he had died intestate, and the same shall be assigned to them, and all the other heirs, devisees and legatees shall refund their proportional part.



§ 12. **Effect of Advancements During Life.**—SEC. 28. If such child or children, or their descendants, shall have an equal proportion of the testator's estate bestowed on them in the testator's lifetime by way of advancement, they shall take nothing by virtue of the provisions of the preceding sections.

§ 13. **Effect of Death of Devisee Before Testator.**—SEC. 29. When any estate shall be devised to any child, grandchild or other relative of the testator, and such devisee shall die before the testator, leaving lineal descendants, such descendant shall take the estate, real and personal, as such devisee would have done in case he had survived the testator.

§ 14. **Destruction, etc., of Second Will Does Not Necessarily Revive Former.**—SEC. 30. If, after making any will the testator shall duly make and execute a second will, the destruction, canceling or revocation of such second will shall not revive the first will unless it appears by the terms of such revocation that it was his intention to revive and give effect to the first will, or unless he shall duly republish his first will.

§ 15. **Nuncupative Will: What Constitutes.**—SEC. 31. No nuncupative will shall be good when the estate bequeathed exceeds the value of two hundred dollars, nor unless the same be proved by two witnesses who were present at the making thereof, nor unless it be proven that the testator at the time of pronouncing the same did bid some person present to bear witness that such was his will, or to that effect, nor unless such nuncupative will was made at the last sickness and at the dwelling house of the deceased, or where he had been residing for the space of ten days or more, except where such person was taken sick from home and died before his return.

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§ 16. **Nuncupative Will: Limitation of Proof.**—SEC. 33. No proof shall be received of any nuncupative will unless it be offered within six months after speaking the testamentary words, nor unless the words, or the substance thereof, be first committed to writing and a citation issued, accompanied with a copy thereof, to call the widow or next of kin of the deceased that they may contest the will if they think proper.

§ 17. **Beneficial Devisees to Witness, Void: Exception.**—SEC. 34. All beneficial devisees, legacies and gifts whatever, made or given in any will to a subscribing witness thereto, shall be void unless there are two other competent subscribing witnesses to the same, but a mere charge<sup>2</sup> [charge] on the estate of the testator for the payment of debts shall not prevent his creditors from being competent witnesses to his will.

§ 18. **How Share Saved to Such Witness.**—SEC. 35. But if such witness, to whom any beneficial devise, legacy or gift may have been made or given, would have been entitled to any share in the testator's estate, in case the will is not established, then so much of the estate as would have descended, or would have been distributed to such witness, shall be saved to him as will not exceed the value of the devise or bequest made to him in the will; and he may recover the same from the devisees or legatees named in the will in proportion to, and out of, the parts devised and bequeathed to him.

§ 19. **Devise Shall Convey Whole Estate: Exception.**—SEC. 36. Every devise of land in any will shall be construed to convey all the estate of the devisor therein which he could lawfully devise, unless it shall clearly appear by the will that he intended to convey a less estate.

§ 20. **Estate for Life With Remainder.** SEC. 37. If any person by last will devise any real estate to any person for the term of such person's life, such devise vests in the devisee an estate for life, and without the remainder is specially devised to the heirs of said devisee, it shall revert to the heirs at law of the testator.

<sup>2</sup> See No. 523, *infra*.

§ 21. **After Acquired Interest of Testator Shall Pass.**—SEC. 38. Any estate, right or interest in lands acquired by the testator after the making of his or her will, shall pass thereby and in like manner as if it passed at the time of making the will, if such shall manifestly appear by the will to have been the intention of the testator.

§ 22. **When Contribution Necessary.**—SEC. 39. When any testator in his last will shall give any chattel or real estate to any person, and the same shall be taken in execution for the payment of the testator's debts, then all the other legatees, devisees and heirs shall refund their proportional part of such loss to such person from whom the bequest shall be taken.

§ 23. **How Contributions Enforced.**—SEC. 40. When any devisees, legatees or heirs shall be required to refund any part of the estate received by them for the purpose of making up the share, devise or legacy of any other devisee, legatee or heir, the probate court, upon the petition of the person entitled to contribution or distribution of such estate, may order the same to be made, and enforce such order with like effect as a judgment of the district court.

§ 24. **Term "Will."**—SEC. 41. The term "will," as used in this act, shall be so construed as to include all codicils attached to any will.

§ 25. **To be Liberally Construed.**—SEC. 42. All courts and others concerned in the execution of the last wills shall have due regard for the direction of the will and the true intents and meaning of the testator in all matters brought before them.

#### CHAPTER III.

§ 26. **Venue.**—SEC. 43. Wills shall be proved and letters testamentary or of administration shall be granted—(1) In the county of which the deceased was a resident or had his place of abode at the time of his death. (2) In the county in which he may have died, leaving estate therein, and not being a resident of the Territory. (3) In the county in which any part of his estate may be, he having died out of the Territory and not having been a resident thereof at the time of his death.

§ 27. **Venue When Estate in Several Counties.** SEC. 44. When the estate of the deceased is in more than one county, he having died out of the Territory and not having been a resident thereof at the time of his death, the probate court of that county in which application is first made for letters testamentary or of administration shall have exclusive jurisdiction of the settlement of the estate.

#### CHAPTER IV.

§ 28. **Proof.**—SEC. 45. Any person having the custody of any will shall, within thirty days after he shall have knowledge of the death of the testator, deliver said will into the probate court which has jurisdiction of the case or to the person named in the said will as executor.

§ 29. **Duty of Executor.**—SEC. 46. Any person named as executor in any will shall, within thirty days after he has knowledge that he is executor, present the will, if in his possession, to the probate court which has jurisdiction.

§ 30. **Executor May Decline to Act; How.**—SEC. 47. An executor named in any will<sup>\*</sup> may decline to act by filing a written renunciation at the time of filing said will; but if he intends to accept, he shall present with the will a petition praying that the will be admitted to probate and that letters testamentary be issued to him.

§ 31. **Certificate of Probate or Rejection.**—SEC. 53. When any will is exhibited to be proven, the court may immediately receive the proof, and

<sup>\*</sup> See No. 523, *infra*.



grant a certificate of probate, or if such will be rejected, issue a certificate of rejection.

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§ 32. **If One Witness be Dead, etc., How Signatures Proved.**—SEC. 56. When one of the witnesses to such will shall be examined, and the other witnesses are dead, insane, or their residence unknown, then such proof shall be taken of the handwriting of the testator, and of the witnesses dead, insane, or residence unknown, and of such other circumstances as would be sufficient to prove such will.

§ 33. **If all Dead, How Proved.**—SEC. 57. If it shall appear to the satisfaction of the court that all the subscribing witnesses are dead, insane, or their residence unknown, the court shall take and receive such proof of the handwriting of the testator and subscribing witnesses to the will, and of such other facts and circumstances as would be sufficient to prove such will.

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§ 34. **Recording.**—SEC. 59. All wills shall be recorded by the probate judge, in a book kept for that purpose, within thirty days after probate, and the originals shall be carefully filed.

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§ 35. **Recording, When Land in Different Counties.**—SEC. 62. In all cases where lands devised by last will are situated in different counties, a copy of such will shall be recorded in the county auditor's office in each county within six months after probate.

§ 36. **Contest: Limitation of, One Year — Manner of.**—SEC. 63. If any person interested in any will shall appear within one year after the probate or rejection thereof, and by petition to the probate court having jurisdiction contest the validity of said will, or pray to have the will proven which has been rejected, he shall file a statement containing his objections and exceptions to said will or to the rejection thereof. An issue shall be made up in said probate court respecting the competency of the deceased to make last will and testament, or respecting the execution by the deceased of such last will and testament under restraint, or undue influence, or fraudulent representations, or for any other cause affecting the validity of such will, such issue or issues shall, at the request of either of the parties interested, be certified immediately to the district court of the district which may embrace the county where probate jurisdiction has been exercised, for trial by jury, or may, by the consent of the parties, be tried by the probate court. Such issue or issues of fact shall be made up and tried in the same manner as is or may be provided by law for the trial of issues of fact in other cases. The jury trying the same shall render a special verdict thereon, subject, nevertheless, to the like objections and exceptions to the decisions of the court as in civil actions. After the trial of such issue, without an appeal or writ of error shall be taken in said case to the supreme court, as hereinafter allowed, the district court shall remit the proceedings upon such trial, together with the findings and decision, to the probate court, which shall form part of the record of the cause in the probate court. The probate court shall render judgment according to the finding and decision of the district court, or upon appeal to the supreme court, then upon the judgment or decision of said supreme court.

§ 37. **Notice.**—SEC. 64. Upon the filing of the petition referred to in the next preceding section, a citation shall be issued to the executors who have taken upon them the execution of the will, or to the administrators with the will annexed, and to all the legatees named in the will residing in the Territory, or to their guardians, if any of them are minors, or their personal representative, if any of them are dead, requiring them to appear before the court on some day of a regular term therein specified, to show cause why the petition should not be granted.

§ 38. **On Whom Judgment Binding.**—SEC. 65. If no person shall appear within the time aforesaid, the probate or rejection of such will shall be binding, saving to infants, married women, persons absent from the United States or of unsound mind, a like period of one year after their respective disabilities are removed.

§ 39. **Force and Effect of Judgment.**—SEC. 67. If upon the trial of said issue it shall be decided that the will is for any reason invalid, or that it is not sufficiently proved to have been the last will of the testator, the will and probate thereof shall be annulled and revoked.

§ 40. **Powers of Executor Cease After Revocation.**—SEC. 68. Upon the revocation being made, the powers of the executor or administrator with the will annexed shall cease, but such executor or administrator shall not be liable for any act done in good faith previous to service of written notice of intention to contest said will.

§ 41. **Lost or Destroyed Will: How Re-established.**—SEC. 70. Whenever any will be lost or destroyed, by accident or design, the probate court shall have power to take proof of the execution and validity of the will, and to establish the same, notice to all persons interested having first been given, shall be reduced to writing and signed by the witnesses. But no will shall be allowed to be proved as a lost or destroyed will unless the same shall be proved to have been in existence at the time of the death of the testator, or be shown to have been fraudulently destroyed in the lifetime of the testator, nor unless its provisions shall be clearly and distinctly proved by at least two credible witnesses.

§ 42. **Certificate of Probate Judge: Substance of—Record of.**—SEC. 71. When any will shall be established, the provisions thereof shall be distinctly stated and certified by the probate judge under his hand and the seal of the court, and the certificate, together with the testimony upon which it is founded, shall be recorded as other wills are required to be recorded, and letters testamentary or of administration, with the will annexed, shall be issued thereon in the same manner as upon wills produced and only proved.

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\* \* See No. 523, *infra*.

#### **No. 523.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY<sup>1</sup>**

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<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 198, 206, 210, 211.) This No. is verbatim as No. 522, *supra*, except § 17 of said No. at <sup>2</sup> the word "change" is omitted, and § 30 at <sup>3</sup> instead of "any will" read "the will," and § 41 at <sup>4</sup> "all" is omitted, and at <sup>5</sup> instead of "shall be reduced" read "such proof shall be reduced." For repealing clause etc., see No. 502, §§ 16 to 26, *supra*.

#### **No. 524.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

#### **CHAPTER III.**

§ 2. **Who May Devise: How.**—SEC. 22. Every person who shall have attained the age of majority, of sound mind, may by last will devise all his or her estate, real and personal.

<sup>1</sup> Approved Nov. 11, 1873. (See Fourth Bien. Sess. 1873, pp. 252, 257.) For repealing clause see No. 506, §§ 13 to 17, *supra*.



§ 3. **What Constitutes a Will.**—SEC. 23. Every will shall be in writing, signed by the testator or testatrix, or by some other person under his or her direction in his presence, and shall be attested by two or more competent witnesses subscribing their names to the will in the presence of the testator.

§ 4. **Witness May Sign Testator's Name: How.**—SEC. 24. Every person who shall sign the testator's or testatrix's name to any will by his or her direction shall subscribe his own name as a witness to such will, and state that he subscribed the testator's name at his request.

§ 5. **How Will Revoked.**—SEC. 25. No will in writing, except in cases hereinafter mentioned, nor any part thereof, shall be revoked except by a subsequent will in writing, or by burning, canceling, tearing or obliterating the same by the testator or testatrix, or in his or her presence or by his or her consent and <sup>2</sup> direction.

§ 6. **Marriage After Making Will Deemed Revocation: Exception.**—SEC. 26. If, after making any will, the testator shall marry and the wife shall be living at the time of the death of the testator, such will shall be deemed revoked, unless provision shall have been made for her by marriage settlement or unless she be provided for in the will, or in such way mentioned therein as to show an intention not to make such provision, and no other evidence to rebut the presumption of revocation shall be received.

§ 7. **Bond, etc., for Conveyance by Testator Not Deemed Revocation.**—SEC. 27. A bond, covenant or agreement made for a valuable consideration by a testator to convey any property, devised or bequeathed in any last will previously made, shall not be deemed a revocation of such previous devise or bequest, but such property shall pass by the devise or bequest, subject to the same remedies on such bond, covenant or agreement for specific performance or otherwise, against devisees or legatees, as might be had by law against the heirs of the testator or his next of kin if the same had descended to them <sup>3</sup>.

§ 8. **Effect of Charge or Incumbrance.**—SEC. 28. A charge or incumbrance upon any real or personal estate for the purpose of securing the payment of money, or the performance of any covenant or agreement, shall not be deemed a revocation of any will relating to the same estate, previously executed. The devises and legacies therein contained shall pass and take effect subject to such charge or incumbrance.

§ 9. **Effect as to Certain Persons Not Named.**—SEC. 29. If any person make his last will and die leaving a child or children, or descendants of such child or children, in case of their death, not named or provided for in such will, although born after the making of such will, or the death of the testator, every such testator, so far as he shall regard such child or children or their descendants not provided for, shall be deemed to die intestate, and such child or children, or their descendants, shall be entitled to such proportion of the estate of the testator, real and personal, as if he had died intestate, and the same shall be assigned to them, and all the other heirs, devisees and legatees shall refund their proportional part.

§ 10. **Effect of Advancements During Life.**—SEC. 30. If such child or children or their descendants shall have an equal proportion of the testator's estate bestowed on them in the testator's lifetime by way of advancement, they shall take nothing by virtue of the provisions of the preceding sections.

§ 11. **Effect of Death of Devisee Before Testator.**—SEC. 31. When any estate shall be devised to any child, grandchild or other relative of the testator, and such devisee shall die before the testator leaving lineal

<sup>2</sup> = Sec No. 326, *infra*.

descendants, such descendants shall take the estate, real and personal, as such devisee would have done in case he had survived the testator.

**§ 12. Destruction, etc., of Second Will Does Not Necessarily Revive Former.**—SEC. 32. If, after making any will, the testator shall duly make and execute a second will, the destruction, canceling or revocation of such second will shall not revive the first will unless it appears by the terms of such revocation that it was his intention to revive and give effect to the first will, or unless he shall duly republish his first will.

**§ 13. Nuncupative Will: What Constitutes.**—SEC. 33. No nuncupative will shall be good when the estate bequeathed exceeds the value of two hundred dollars, unless the same be proved by two witnesses, who were present at the making thereof, and it be proven that the testator, at the time of pronouncing the same, did bid some person present to bear witness that such was his will, or to that effect, and such nuncupative will was made at the time of the last sickness, and at the dwelling house of the deceased, or where he had been residing for the space of ten days or more, except where such person was taken sick from home, and died before his return. \* \* \*

**§ 14. Nuncupative Will: Limitation of Proof.**—SEC. 34. No proof shall be received of any nuncupative will unless it be offered within six months after speaking the testamentary words, nor unless the words or the substance thereof be first committed to writing, and a citation issued to the widow or next of kin of the deceased, that they may contest the will if they think proper.

**§ 15. Beneficial Devisees to Witness Void: Exception.**—SEC. 35. All beneficial devises, legacies and gifts whatever, made or given in any will to a subscribing witness thereto, shall be void unless there are two other competent witnesses to the same, but a mere charge on the estate of the testator for the payment of debts shall not prevent his creditors from being competent witnesses to his will. If such witness, to whom any beneficial devise, legacy or gift may have been made or given, would have been entitled to any share in the testator's estate, in case the will is not established, then so much of the estate as would have descended or would have been distributed to such witness shall be saved to him as will not exceed the value of the devise or bequest made to him in the will; and he may recover the same from the devisees or legatees named in the will, in proportion to and out of the parts devised and bequeathed to him.

**§ 16. Devise Shall Convey Whole Estate: Exception.**—SEC. 36. Every devise of land in any will shall be construed to convey all the estate of the devisor therein which he could lawfully devise, unless it shall clearly appear by the will that he intended to convey a less estate.

**§ 17. Estate for Life With Remainder.**—SEC. 37. If any person, by last will, devise any real estate to any person for the term of such person's life, such devise vests in the deviser an estate for life, and without the remainder is specially devised to the heirs of said devisee, it shall revert to the heirs at law of the testator.

**§ 18. After Acquired Interest of Testator Shall Pass.**—SEC. 38. Any estate, right or interest in lands acquired by the testator after the making of his or her will, shall pass thereby and in like manner as if it passed at the time of making the will, if such shall manifestly appear by the will to have been the intention of the testator.

**§ 19. When Contribution Necessary.**—SEC. 39. When any testator in his last will shall give any chattel or real estate to any person, and the same shall be taken in execution for the payment of the testator's debts, then all the other legatees, devisees and heirs shall refund their proportional part of such loss to such person from whom the bequest shall be taken.



§ 20. **How Contribution Enforced.**—SEC. 40. When any devisees, legatees or heirs shall be required to refund any part of the estate received by them for the purpose of making up the share, devise or legacy of any other devisee, legatee or heir, the probate court, upon the petition of the person entitled to contribution or distribution of such estate, may order the same to be made, and enforce such order.

§ 21. **Term "Will."**—SEC. 41. The term "will," as used in this act, shall be so construed as to include all codicils attached to any will.

§ 22. **To be Liberally Construed.**—SEC. 42. All courts and others concerned in the execution of last wills shall have due regard to the direction of the will, and the true intent and meaning of the testator in all matters brought before them.

§ 23. **Words Importing Singular Number and Masculine Gender: Force of.**—SEC. 43. Words in this chapter contained, or in this act, which impart the singular number only may also be applied to the plural of persons and things, and words imparting the masculine gender only may be extended to females also when such construction shall be necessary.

#### CHAPTER V.

§ 24. **Venue.**—SEC. 44. Wills shall be proved and letters testamentary or of administration shall be granted—(1) In the county of which deceased was a resident or had his place of abode at the time of his death. (2) In the county in which he may have died, leaving estate therein, and not being a resident of the Territory (3) In the county in which any part of his estate may be, he having died out of the Territory, and not having been a resident thereof at the time of his death.

§ 25. **Venue When Estate in Several Counties.**—SEC. 45. When the estate of the deceased is in more than one county, he having died out of the Territory and not having been a resident thereof at the time of his death, the probate court of that county in which application is first made for letters testamentary or of administration shall have exclusive jurisdiction of the settlement of the estate.

#### CHAPTER VI.

§ 26. **Proof.**—SEC. 46. Any person having the custody of any will shall, within thirty days after he shall have knowledge of the death of the testator, deliver said will into the probate court which has jurisdiction of the case\* or to the person named in the said will as executor.

§ 27. **Duty of Executor.**—SEC. 47. Any person named as executor in any will shall, within thirty days after he has knowledge that he is executor, present the will, if in his possession, to the probate court which has jurisdiction.

§ 28. **Executor May Decline to Act: How.**—SEC. 48. An executor named in the will may decline to act by filing a written renunciation at the time of filing said will; but if he intends to accept, he shall present with the will a petition praying that the will be admitted to probate and that letters testamentary be issued to him.

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§ 29. **Certificate of Probate or Rejection.**—SEC. 54. When any will is exhibited to be proven the court may immediately receive the proof and grant a certificate of probate, or if such will be rejected, issue a certificate of rejection.

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§ 30. **If One Witness be Dead, etc., How Signature Proved.**—SEC. 57. When one of the witnesses to such will shall be examined, and the other witnesses are dead, insane, or their residence unknown, then such

\* See No. 526, *infra*.

proof shall be taken of the handwriting of the testator, and of the witnesses dead, insane, or residence unknown, and of such other circumstances as would be sufficient to prove such will.

§ 31. **If all Dead, How Proved.**—SEC. 58. If it shall appear to the satisfaction of the court that all the subscribing witnesses are dead, insane, or their residence unknown, the court shall take and receive such proof of the handwriting of the testator and subscribing witnesses to the will, and of such other facts and circumstances as would be sufficient to prove such will.

§ 32. **Recording.**—SEC. 60. All wills shall be recorded in a book kept for that purpose, within thirty days after probate, and the originals shall be carefully filed.

§ 33. **Recording, When Land in Different Counties.**—SEC. 63. In all cases where lands devised by last will are situated in different counties, a copy of such will shall be recorded in the county auditor's office in each county within six months after probate.

§ 34. **Contest: Limitation of, One Year—Manner of.**—SEC. 64. If any person interested in any will shall appear within one year after the probate or rejection thereof, and by petition to the probate court having jurisdiction contest the validity of said will, or pray to have the will proven which has been rejected, he shall file a statement containing his objections and exceptions to said will, or to the rejection thereof. An issue shall be made up in said probate court respecting the competency of the deceased to make last will and testament, or respecting the execution by the deceased of such last will and testament under restraint, or undue influence, or fraudulent representations, or for any other cause affecting the validity of such will. Such issue or issues shall, at the request of either of the parties interested, be certified immediately to the district court of the district which may embrace the county where probate jurisdiction has been exercised. After the trial of such issue, without an appeal or writ of error shall be taken in said case to the supreme court, the district court shall remit the proceedings upon such trial, together with the findings and decision, to the probate court. The probate court shall render judgment according to the decision of the district court, or upon appeal to the supreme court, then upon the judgment or decision of said supreme court.

§ 35. **Notice.**—SEC. 65. Upon the filing of the petition referred to in the next preceding section, a citation shall be issued to the executors who have taken upon them the execution of the will, or to the administrators, with the will annexed, and to all legatees named in the will residing in the Territory, or to their guardians, if any of them are minors, or their personal representatives, if any of them are dead, requiring them to appear before the court on some day of a regular term therein specified to show cause why the petition should not be granted.

§ 36. **On Whom Judgment Binding.**—SEC. 66. If no person shall appear within the time aforesaid, the probate or rejection of such will shall be binding, saving to infants, married women, persons absent from the United States or of unsound mind a period of one year after their respective disabilities are removed.

§ 37. **Force and Effect of Judgment.**—SEC. 68. If upon the trial of said issue it shall be decided that the will is for any reason invalid, or that it is not sufficiently proved to have been the last will of the testator, the will and probate thereof shall be annulled and revoked.

§ 38. **Powers of Executor Cease After Revocation.**—SEC. 69. Upon the revocation being made, the powers of the executor or administrator.

with the will annexed, shall cease; but such executor or administrator shall not be liable for any act done in good faith previous to service of written notice of intention to contest said will.

\* \* \* \* \*

§ 39. **Lost or Destroyed Will: How Re-established.**—SEC. 71 When-  
ever any will be lost or destroyed, by accident or design, the probate  
court shall have power to take proof of the execution and validity of the  
will, and to establish the same, notice to persons interested having first  
been given, such proof shall be reduced to writing and signed by the wit-  
nesses. But no will shall be allowed to be proved as a lost or destroyed  
will unless the same shall be proved to have been in existence at the time  
of the death of the testator, or be shown to have been fraudulently destroyed  
in the lifetime of the testator, nor unless its provisions shall be clearly  
and distinctly proved by at least two credible witnesses.

§ 40. **Certificate of Probate Judge: Substance of.**—Probate of.—  
SEC. 72 When any will shall be established, the provisions thereof shall  
be distinctly stated and certified by the probate judge, under his hand and  
the seal of the court; and the certificate, together with the testimony upon  
which it is founded, shall be recorded as other wills are required to be re-  
corded, and letters testamentary or of administration with the will annexed  
shall be issued thereon, in the same manner as upon wills produced and  
only<sup>a</sup> proved

\* \* \* \* \*

<sup>a</sup> See No. 526, *infra*

**No. 525.—AN ACT RELATING TO PROBATE OF FOREIGN WILLS.<sup>1</sup>**

§ 1. **Copy of: How Authenticated.**—SECTION 1. *Be it enacted, etc.,*  
That wills probated in any other state or territory of the United States,  
or in any foreign country or state, shall be admitted to probate in this  
Territory, on the production of a copy of such will and of the original  
record of probate thereof, authenticated by the attestation of the clerk of  
the court in which such probate was made, or if there be no clerk, by  
the attestation of the judge thereof, and by the seal of office of such offi-  
cers, if they have a seal.

§ 2. **Law of Domestic Wills Shall Apply.**—SEC. 2. All provisions of  
law relating to the carrying into effect of domestic wills after probate  
shall, so far as applicable, apply to foreign wills admitted to probate in  
this Territory as contemplated in the preceding section.

<sup>1</sup> Approved Oct. 20, 1877. (See Sixth Bien. Sess. 1877, p. 284.)

**No. 526.—PROBATE PRACTICE ACT.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> (See Code 1881, pp. 231, 234, chap. 97, p. 237, chaps. 98 and 99, secs. 1342 to 1344, inclu-  
sive, 1350, 1353, 1354, 1356, 1359 to 1362, inclusive, 1364, 1365, 1367, 1368. This No. is *verbatim*  
as No. 524 *supra*, except § 5 of said No. at 2 instead of "and" read "or," and § 7 at 2 in-  
stead of "them" read "him," and § 26 at 4 "of the case" is omitted, and § 40 at 6 instead  
of "only" read "duly," and No. 525, *supra*, after the enacting clause, appears *verbatim* as  
secs. 1370, 1371. (See *ibid.*, p. 240, chap. 100, relating to "probate of foreign wills.") For  
date of act, date in effect and repealing clause, etc., see Nos. 338, 339, 340.



## CHAPTER III—EXECUTORS AND ADMINISTRATORS.

## 1. POWERS AND DUTIES OF.

**No. 527.—AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE.<sup>1</sup>**

## CHAPTER I.

**§ 1. Letters Testamentary: Venue of.**—SECTION 1. *Be it enacted, etc.,* That upon the decease of any inhabitant of this Territory, letters testamentary or letters of administration on his estate shall be granted by the probate court for the county in which the mansion house or place of abode of the deceased was situated at the time of his death. If he had no mansion house or place of abode in this Territory at the time of his death, and was possessed of lands in this Territory, letters may be granted in the county in which such land or a part thereof lies. If the deceased had neither mansion house, place of abode nor lands in this Territory at the time of his death, letters testamentary or of administration may be granted in the county where he died, or in which the greater part of his estate may be. If he died out of the Territory, having at the time of his death neither mansion house, place of abode or lands in this Territory, such letters may be granted in any county where his estate or a part of it may be.

**§ 2. Venue of Proceedings, etc.**—SEC. 2. All orders, settlements, trials and other proceedings intrusted by this act to the probate court shall be had or made in the county in which letters testamentary or of administration were granted.

\* \* \* \* \*

**§ 3. To Whom Letters Shall Issue.**—SEC. 5. After the probate of any will, letters testamentary shall be granted to the persons therein appointed executors. If a part of the persons thus appointed refuse to act, or be disqualified, the letters shall be granted to the other persons appointed therein. If all such persons refuse to act, or be disqualified, letters of administration, with the will annexed, shall be granted to the person to whom administration would have been granted if there had been no will.

\* \* \* \* \*

**§ 4. Special Administrator.** SEC. 11. When, by reason of a suit concerning the proof of a will, or from any other cause, there shall be a delay in granting letters testamentary or of administration, the judge of probate may in his discretion appoint a special administrator other than one of the parties, to collect and preserve the effects of the deceased; and in case of an appeal from the decree appointing such special administrator, he shall nevertheless proceed in the execution of his trust until he shall be otherwise ordered by the district court to which such appeal is taken.

\* \* \* \* \*

**§ 5. Petition for Letters: Substance of.**—SEC. 16. Application for letters of administration shall be made by petition in writing signed by the applicant or his attorney, and filed in the probate court, which petition shall set forth the facts essential to giving the court jurisdiction of the case, and such applicant at the time of making such application shall make an affidavit stating, to the best of his knowledge and belief, the names and places of residence of the heirs of the deceased, and that the deceased died without a will.

\* \* \* \* \*

<sup>1</sup> No date given (See First Reg. Sess. 1854, pp. 286, 276, 291, 300, 304.)

§ 6. **Record of Letters.**—SEC. 22 The judge of probate shall cause his clerk to record, in a well bound book kept for that purpose, all letters testamentary and of administration, before they are delivered to the executors or administrators, and shall certify on such letters that they have been so recorded.

§ 7. **If Will Found, Letters Revoked.**—SEC. 27. If after letters of administration are granted a will of the deceased be found, and probate thereof be granted, the letters shall be revoked, and letters testamentary or of administration with the will annexed shall be granted.

§ 8. **If Will Set Aside, Letters Revoked.**—SEC. 28. If after a will has been found and letters thereon granted the will shall afterwards be set aside, the letters shall be revoked and letters of administration granted on the goods unadministered.

§ 9. **Letters Revoked by Marriage of Executrix.**—SEC. 29 If any executrix or administratrix marry, her husband shall not thereby acquire any interest in the effects of her testator or intestate, nor shall the administration thereby devolve on him; but the marriage shall extinguish her powers and the letters be revoked.

§ 10. **If Letters of One Executrix Revoked, Those Remaining Shall Perform Duties.**—SEC. 38. If there be more than one executor or administrator of an estate, and the letters or part of them be revoked or surrendered, or a part die or in any way become disqualified, those who remain shall perform all the duties required by law respecting the estate.

§ 11. **Non-Resident Not Qualified Executor.**—SEC. 55. Letters testamentary or of administration shall not be granted to a non-resident in this Territory; and when an executor or administrator shall become non-resident the probate court having jurisdiction of the estate of the testator or intestate of such executor or administrator shall revoke his letters

## II.

§ 12. **Inventory to be Made.**—SEC. 56. Every executor and administrator shall make and return, upon oath, into the probate court, within two months after his appointment, a true inventory of the real and personal estate of the deceased, which is by law to be administered, and which shall have come to his possession or knowledge.

§ 13. **Substance of Inventory.**—SEC. 58. The inventory shall contain all the estate of the deceased, real and personal, which is by law to be administered, a statement of all debts, partnership and other interests, bonds, mortgages, notes, and other securities for the payment of money belonging to the deceased, specifying the name of the debtor in each security, the date, the sum originally payable, the endorsements thereon, if any, and their dates, and the sum which, in the judgment of the appraisers, may be collectible on each debt, interest, or security.

§ 14. **Certain Duties of Executors.**—SEC. 65 The executor or administrator shall have a right to the possession of all the real, as well as personal, estate of the deceased, and may receive the rents and profits of the real estate, until the estate shall be settled or delivered over by order of the probate court to the heirs or devisees, and shall keep in good tenantable repair all houses, buildings and fixtures thereon which are under his control.

§ 15. **In What Case Real Estate May be Sold.**—SEC. 66. The personal estate of the deceased, which shall come into the hands of the executor or administrator, shall be first chargeable with the payment of the

debts and expenses; and if the goods, chattels, rights and credits in the hands of the executor or administrator shall not be sufficient to pay the debts of the deceased, the expenses of administration, and the allowance to the family of the deceased, the whole, or so much as may be necessary of the real estate, may be sold for that purpose by the executor or administrator in the manner prescribed in this act

\* \* \* \* \*

# VI.

\* \* \* \* \*

§ 16. **Executors, etc., May Maintain Certain Actions.**—SEC. 142. Actions for the recovery of any property, real or personal, or for the possession, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates.

\* \* \* \* \*

§ 17. **Recovery of Real Estate Fraudulently Conveyed.**—SEC. 147. When there shall be a deficiency of assets in the hands of an executor or administrator, and when the deceased shall, in his lifetime, have conveyed any real estate, or any right or interest therein, with intent to defraud his creditors, or to avoid any right, duty or debt of any person, or shall have so conveyed such estate that by law the deeds or conveyances are void as against creditors, the executor or administrator may, and it shall be his duty to, commence and prosecute to final judgment any proper action for the recovery of the same, and may recover for the benefit of the creditors all such real estate so fraudulently conveyed, and may also, for the benefit of the creditors, sue and recover all goods, chattels, rights and credits which may have been so fraudulently conveyed by the deceased in his lifetime, whatever may have been the manner of such fraudulent conveyance.

§ 18. **Executor Not Bound to Sue: Exception.**—SEC. 148. No executor or administrator shall be bound to sue for such estate as mentioned in the preceding section, for the benefit of the creditors, unless on application of the creditors of the deceased, \* \* \*

§ 19. **How Real Estate Recovered, Applied.**—SEC. 149. The real estate so recovered shall be sold for the payment of debts in the same manner as if the deceased had died seized thereof, upon obtaining an order therefor from the probate court, and the proceeds of all goods, chattels, rights and credits so recovered shall be appropriated in payment of debts of the deceased, in the same manner as other property in the hands of the executor or administrator.

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# IX.

\* \* \* \* \*

§ 20. **In What Case Letters May Issue After Settlement of Estate.**—SEC. 224. The final settlement of the estate shall not prevent a subsequent issuance of letters of administration should other property of the estate be discovered, or it should become necessary and proper from any cause that letters should be again issued.

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# X.

\* \* \* \* \*

§ 21. **Notice: Substance of.**—SEC. 226. Whenever personal notice is required by this act to be given to any party to a proceeding in the probate court, and no other mode of giving notice is prescribed, it shall be given by citation, issued from the court, signed by the judge, and under the seal of the court, directed to the sheriff of the proper county, requiring



him to cite such person to appear before the court or judge, as the case may be, at a time and place to be named in such citation. In the body of the citation shall be briefly stated the nature or character of the proceedings.

§ 22. **Notice: Service of.**—SEC. 227. The officer to whom the citation is directed shall serve it by delivering a copy to the person named therein, or to each of them, if there be more than one, and shall return the original to the court according to its direction, endorsing thereon the time and manner of service.

§ 23. **Notice: Time of Service.**—SEC. 228. When no other time has been specially prescribed, citation shall be served at least five days before return day.

§ 24. **How Process Attested.**—SEC. 229. All writs and processes issued from the probate court shall be signed by the judge and under the seal of the court.

§ 25. **District Court Practice in Force.**—SEC. 280. The practice in the district court shall be applicable to proceedings in the probate court, so far as the same does not conflict with any enactment specially applicable to the probate court, or is not inconsistent with the provisions of this act.

\* \* \* \* \*

**No. 528.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*

**CHAPTER V.**

§ 2. **To Whom Letters Shall Issue.**—SEC. 78. After the probate of any will, letters testamentary shall be granted to the persons therein appointed executors. If a part of the persons thus appointed refuse to act, or be disqualified, the letters shall be granted to the other persons appointed therein. If all such persons refuse to act, or be disqualified,<sup>2</sup> letters of administration with the will annexed shall be granted to the person to whom administration would have been granted if there had been no will.

\* \* \* \* \*

§ 3. **If Will Found, Letters Revoked.**—SEC. 76. If, after letters of administration are granted, a will of the deceased be found, and probate thereof be granted, the letters shall be revoked, and letters testamentary or of administration with the will annexed shall be granted.

§ 4. **If Will Set Aside, Letters Revoked.**—SEC. 77. If, after a will has been found and letters thereon granted, the will shall afterwards be set aside, the letters shall be revoked, and letters of administration granted on the goods unadministered.

§ 5. **Letters Revoked by Marriage of Executrix.**—SEC. 78. If any executrix or administratrix marry, her husband shall not thereby acquire any interest in the effects of her testator or intestate, nor shall the administration thereby devolve on him; but the marriage shall extinguish her powers, and the letters be revoked.

\* \* \* \* \*

§ 6. **Powers of Executor of Executor.**—SEC. 80. No executor of an executor shall, as such, be authorized to administer upon the estate of

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, pp. 165, 178, 189, 198, 215.) See also No. 501, §§ 13 to 18.

<sup>2</sup> See Nos. 529, 530, § 32, *infra*.

the first testator, but on the death of the sole or surviving executor of any last will, letters of administration with the will annexed, of the estate of the first testator left unadministered, shall be issued.

§ 7. **Powers of Certain Executors.**—SEC. 81. When all the executors named shall not be appointed by the court, such as are appointed shall have the same authority to perform every act and discharge every trust required by the will, and their acts shall be as effectual for every purpose as if all were appointed and should act together.

§ 8. **Powers of Administrators With Will Annexed.**—SEC. 82. Administrators with the will annexed shall have the same authority as the executor named in the will would have had, and their acts shall be as effectual for every purpose.

§ 9. **Letters With Will Annexed.**—SEC. 83. Letters testamentary and of administration with the will annexed shall be signed by the clerk of probate, and be under the seal of the court, and a copy of the will shall be attached to the letters.

§ 10. **Affidavit as to Another Will.**—SEC. 84. Every administrator with the will annexed, and executor, at the time letters are granted him, shall make an affidavit that he knows of no other and subsequent will of the deceased.

§ 11. **How Letters to be Recorded.**—SEC. 85. The judge of probate shall cause his clerk to record in a well bound book, kept for that purpose, all letters testamentary and of administration, before they are delivered to the executors or administrators, and shall certify on such letters that they have been so recorded.

§ 12. **Special Administrator.**—SEC. 104. When by reason of a suit concerning the proof of a will, or from any other cause, there shall be a delay in granting letters testamentary or of administration, the judge of probate\* may, in his discretion, appoint a special administrator (other than one of the parties) to collect and preserve the effects of the deceased, and in case of an appeal from the decree appointing such special administrator, he shall nevertheless proceed in the execution of his trust, until he shall be otherwise ordered by the district court to which such appeal is taken.

§ 13. **If Letters of One Executor Revoked, Those Remaining Shall Perform Duties.**—SEC. 112. If there be more than one executor or administrator of an estate, and the letters or part of them be revoked or surrendered, or a part die, or in any way become disqualified, those who remain shall perform all the duties required by law respecting the estate.\*

§ 14. **Non-Resident Not Qualified Executor.**—SEC. 131. Letters testamentary or of administration shall not be granted to a non-resident in this Territory; and when an executor or administrator shall become non-resident, the probate court having jurisdiction of the estate of the testator, or intestate of such executor or administrator, shall revoke his letters.

#### CHAPTER VI.

§ 15. **Inventory to be Made.**—SEC. 136. Every executor and administrator shall make and return, upon oath, into the probate court, within two months after his appointment, a true inventory of the real and personal estate of the deceased, which is by law to be administered, and which shall have come to his possession or knowledge.

\* \* See Nos. 529, 530, 532, *infra*.

§ 16. **In What Case Real Estate May be Sold.**—SEC. 145. The personal estate of the deceased, which shall come into the hands of the executor or administrator, shall be first chargeable with the payment of the debts and expenses; and if the goods, chattels, rights and credits in the hands of the executor or administrator shall not be sufficient to pay the debts of the deceased, the expenses of administration and the allowance to the family of the deceased, the whole, or so much as may be necessary, of the real estate may be sold for that purpose by the executor or administrator, in the manner prescribed in this act.

\* \* \* \* \*

CHAPTER VII.

§ 17. **Homestead Shall Remain With Widow, etc.**—SEC. 150. When a person shall die, leaving a widow and minor child or children, the widow, child or children shall, until letters have been granted and the inventory returned be entitled to remain in possession of the homestead \* \* \*

§ 18. **Property Exempt Shall be Set Aside.**—SEC. 151. Upon the return of the inventory, the court shall set apart for the use of the widow, minor child or children all the property of the estate by law exempt from execution

\* \* \* \* \*

§ 19. **Rights of Widow and Children in Property.**—SEC. 154. When property shall have been set apart for the use of the family, in accordance with the provisions of this chapter, if the deceased shall have left a widow and no minor children, such property shall be the property of the widow, if he shall have left also a minor child or children, one-half to the widow and the remainder to such child, or in equal shares to such children if there are more than one; if there be no widow, then the whole shall belong to the minor child or children.

§ 20. **If the Estate Not More Than Three Hundred Dollars, to go to Widow, etc.** SEC. 155. If, on the return of the inventory of any intestate's estate, who died leaving a widow or minor children, it shall appear that the value of the estate does not exceed three hundred dollars, the probate court shall, by decree for that purpose, assign for the use and support of the widow and minor children of the intestate, or for the support of the minor child or children if there be no widow, the whole estate after the payment of the funeral expenses and expenses of administration, and there shall be no further proceedings in the administration, unless further estate be discovered.

§ 21. **If no Widow, etc., Estate Distributed.**—SEC. 156. If intestate leave no widow or minor children, all his estate shall be assets in the hands of the administrator, after payment of funeral expenses and expenses of administration, for the payment of the debts of the deceased, or be distributed according to law.

\* \* \* \* \*

CHAPTER X.

\* \* \* \* \*

§ 22. **Executors, etc., May Maintain Certain Actions.**—SEC. 222. Actions for the recovery of any property, real or personal, or for the possession thereof and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates

\* \* \* \* \*

§ 23. **Recovery of Real Estate Fraudulently Sold.**—SEC. 227. When there shall be a deficiency of assets in the hands of an executor or administrator, and when the deceased shall in his lifetime have conveyed any



real estate, or any right or interest therein, with intent to defraud his creditors or to avoid any right, duty or debt of any person, or shall have so conveyed such estate that by law the deeds or conveyances<sup>a</sup> are void as against creditors, the executor or administrator may, and it shall be his duty to commence and prosecute to final judgment any proper action for the recovery of the same, and may recover for the benefit of the creditors all such real estate so fraudulently conveyed, and may also, for the benefit of the creditors, sue and recover all goods, chattels, right and credits which may have been so fraudulently conveyed by the deceased in his lifetime, whatever may have been the manner of such fraudulent conveyance.

§ 24. **Executor Not Bound to Sue: Exception.**—SEC. 228. No executor or administrator shall be bound to sue for such estate, as mentioned in the preceding section, for the benefit of the creditors, unless on application of the creditors of the deceased, nor unless the creditors making such application shall pay such part of the costs and expenses or give such security to the executor or administrator thereof as the probate judge may direct.

§ 25. **How Real Estate Recovered, Applied.**—SEC. 229. The real estate so recovered shall be sold for the payment of debts in the same manner as if the deceased had died seized thereof, upon obtaining an order therefor from the probate court, and the proceeds of all goods, chattels, rights and credits so recovered shall be appropriated in payment of debts of the deceased in the same manner as other property in the hands of the executor or administrator.

\* \* \* \* \*

#### CHAPTER XIII.

\* \* \* \* \*

§ 26. **In What Case Subsequent Letters Issued.**—SEC. 305. The final settlement of the estate shall not prevent a subsequent issuance of letters of administration, should other property of the estate be discovered, or should it become necessary and proper from any cause that letters should be again issued.

\* \* \* \* \*

<sup>a</sup> See Nos. 530, 532, *infra*.

#### No. 529.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 196, 215, 228, 245, 258, chap. 8, secs. 106, 109 to 118, inclusive, 137, 140, 141, 145, 146, 164; chap. 9, secs. 163, 174; chap. 10, secs. 183, 184, 187 to 189, inclusive, chap. 13, secs. 256, 261 to 263; chap. 16, sec. 339.) This No. is *verbatim* as No. 528, *supra*, except § 2 of said No. at 2 after the words "or be disqualified" read "the letters," and § 12 at 3 instead of "judge of probate" read "judge of probate court." All conflicting laws and parts of laws repealed. In effect from date.

#### No. 530.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Approved Nov. 11, 1873. (See Fourth Bienn. Sess., 1873, pp. 252, 256, 278, 283, 297, 308, chap. 6, secs. 74, 77 to 86, inclusive, 104, 107, 108, 115, 117, chap. 7, secs. 130, 139, chap. 8, secs. 146, 147, 150, 151; chap. 11, secs. 215, 220 to 222, inclusive, chap. 12, sec. 298.) This No. is *verbatim* as No. 528, *supra*, except § 2 of said No. at 2 after the words "or be disqualified" read "the letters," and § 12 at 3 instead of "judge of probate" read "judge of probate court," and § 13 at 4 the words "respecting the estate" are omitted, and § 23 at 5 instead of the words "that by law the deeds or conveyances" read "which deeds or conveyances by law," and § 30 is omitted; and instead of § 14 read as follows: "The following persons are not qualified to act as executors or administrators: Non residents of this Territory, minors, judicial officers other than justices of the peace, persons of unsound mind, or who have been convicted of felony or of a crime involving moral turpitude, or a married woman. And whenever any person to whom letters testamentary or of administration have been issued becomes disqualified to act because of leaving the Territory,

becoming of unsound mind, or is convicted of any crime or misdemeanor involving moral turpitude, or of a woman and she ceases to be single, the probate court having jurisdiction shall revoke his or her letters, as in this act provided." For repealing clause and date in effect see No. 506, §§ 13 to 17.

**No. 531.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY," APPROVED NOVEMBER ELEVENTH, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-THREE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Homestead Shall be Set Aside for Widow, etc.—SEC 8.** \* \* \* Section one hundred and forty-six<sup>2</sup> shall be and the same is amended to read as follows Section one hundred and forty-six. When a person shall die leaving a widow and minor child or children, the widow, child or children shall be entitled to remain in possession of the homestead, \* \* \* and if the head of the family in his or her lifetime had not complied with the provisions of the law relative to the acquisition of a homestead, the widow, or the child or children shall be entitled to a homestead as now provided by law for the head of a family, and the same shall be set aside for the use of the child or children or widow on a petition by such widow, or the guardian of such child or children.

<sup>1</sup> Approved Nov 9, 1877. (See Sixth Bien. Sess. 1877, p. 209.) In effect from date.

<sup>2</sup> See Nos. 530 and 528, § 17, *supra*.

**No. 532.—PROBATE PRACTICE ACT.<sup>1</sup>**

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 240, 250, 253, 262, 268, chap. 101, secs. 1372, 1375 to 1384, 1419, 1422, 1423, 1427, 1428; chap. 102, secs. 1445, 1454, 1459; chap. 103, secs. 1460, 1461 to 1463, 1464, chap. 106, secs. 1529, 1534 to 1536, chap. 108, sec. 1608.) This No. is *verbatim* as No. 528, *supra*, except § 2 of said No. at <sup>2</sup> after the words "or be disqualified" read "the letters," and § 12 at <sup>3</sup> instead of "judge of probate" read "judge of probate court," and § 13 at <sup>4</sup> the words "respecting the estate" are omitted, and § 23 at <sup>5</sup> instead of the words "that by law the deed or conveyances" read "which deeds or conveyances by law," and § 20 is omitted, and instead of § 14 read as follows: "The following persons are not qualified to act as executors or administrators: Non-residents of this Territory, minors, judicial officers other than justices of the peace, persons of unsound mind or who have been convicted of felony or of a misdemeanor involving moral turpitude, or a married woman. And whenever any person to whom letters testamentary or of administration have been issued becomes disqualified to act because of leaving the Territory, becoming of unsound mind, or is convicted of any crime or misdemeanor involving moral turpitude, or of a woman and she ceases to be single, the probate court having jurisdiction shall revoke his or her letters, as in this act provided." For repealing clause and date in effect see No. 506, §§ 13 to 17.

**No. 533.—AN ACT TO CORRECT ERRORS AND SUPPLY OMISSIONS IN THE CODE OF WASHINGTON.<sup>1</sup>**

§ 1. **How Homestead Selected.**—SECTION 1. *Be it enacted, etc.*, That for the purpose of correcting errors and supplying omissions in the Code so as to make the same truly express such laws, the following amendments are hereby made therein: \* \* \* (3) Section 1460 is amended by adding to said section the words following: "Said homestead to be selected out of the community property, but if there be no community property such homestead may be selected by the widow or minor child or children out of the husband's or father's separate estate, or by the husband or minor child or children out of the widow's or mother's separate estate, if the husband and father has no separate estate: *Provided*, That but one homestead shall be selected or held by either husband or wife or children and it must embrace the dwelling house in which the family reside."

<sup>1</sup> Approved Nov 28, 1883. (See Ninth Bien. Sess. 1883, p. 41.) In effect from date.

**No. 534.**—AN ACT TO AMEND SECTION 1461 OF THE CODE OF WASHINGTON TERRITORY, AND SECTION 1460 OF THE CODE OF WASHINGTON TERRITORY, AS AMENDED BY AN ACT ENTITLED "AN ACT TO CORRECT ERRORS AND SUPPLY OMISSIONS IN THE CODE OF WASHINGTON TERRITORY," APPROVED NOVEMBER 28, 1883.<sup>1</sup>

§ 1. **Homestead Shall Remain with Widow, etc.**—*Be it enacted, etc.* SECTION 1. That section 1460<sup>2</sup> of the code be amended to read as follows: Section 1460. When a person shall die leaving a widow or minor child or children, the widow, child or children shall be entitled to remain in possession of the homestead. \* \* \* and if the head of the family in his lifetime had not complied with the provisions of the law relative to the acquisition of a homestead, the widow or the child or children may comply with such provisions, and shall be entitled, on such compliance, to a homestead as now provided by law for the head of a family, and the same shall be set aside for the use of the widow, child or children, and shall be exempt from all claims for the payment of any debt, whether individual or community. Said homestead shall be for the use and support of said widow, child or children, and shall not be assets in the hands of any administrator or executor for the debts of the deceased, whether individual or community.

§ 2. **Property Exempt Shall be Set Aside.**—SEC. 2. That section 1461<sup>3</sup> shall be amended to read as follows: Section 1461. In the case of the appointment of an executor or administrator upon the death of the husband, as mentioned in section 1460, the probate court so appointing shall, without cost to the widow, minor child or children, set apart for the use of such widow, minor child or children, all the property of the estate by law exempt from execution; if the amount thus exempt be insufficient for the support of the widow and minor child or children, the probate court shall make such further reasonable allowance out of the estate as may be necessary for the maintenance of the family according to their circumstances during the progress of the settlement of the estate.

\* \* \* \* \*  
<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Blen. Sess. 1885-86, p. 170.) In effect from date.

<sup>2</sup> See Nos. 532 and 528, § 17, *supra*.

<sup>3</sup> See Nos. 532 and 528, § 18, *supra*.

## 2 SALES OF PROPERTY BY EXECUTORS AND ADMINISTRATORS.

**No. 535.**—AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

### CHAPTER V.

§ 2. **No Sale Valid Unless Ordered.**—SEC. 97. No sale of any property shall be valid unless made under order of the probate court.

§ 3. **Application for Order.**—SEC. 98. All applications for orders of sale shall be by petition, in writing, in which shall be set forth the facts, showing the sale to be necessary, and upon the hearing, any person interested in the estate may file his written objections, which shall be heard and determined.

\* \* \* \* \*

§ 4. **In What Case Real Estate May be Sold.**—SEC. 103. When the personal estate in the hands of the executor or administrator shall be in-

<sup>1</sup> No date given. (See First Reg. Sess. 1854, pp. 266, 283.) For repealing clause, date in effect, etc., see No. 498, *supra*.



sufficient to pay the allowance to the family, and all the debts and charges of the administration, the executor or administrator may sell the real estate for that purpose, upon the order of the judge of probate. To obtain such order, he shall present a petition to the probate court, setting forth the amount of the personal estate that has come to his hands, and how much, if any, remains undisposed of; a list and the amounts of the debts outstanding against the deceased, as far as the same can be ascertained, a description of all the real estate of which the testator or intestate died seized, the condition and value of the respective lots and portions; the names and ages of the devisees, if any, and of the heirs of the deceased, which petition shall be verified by the oath of the party presenting the same.

**§ 5. Order to Show Cause.—SEC. 104.** If it shall appear by such petition that there is not sufficient personal estate in the hands of the executor or administrator to pay the allowance to the family, the debts outstanding against the deceased, and the expenses of administration, and that it is necessary to sell the whole or some portion of the real estate for the payment of such debts, the probate judge shall thereupon make an order, directing all persons interested to appear before him, at a time and place specified, not less than four nor more than eight weeks from the time of making such order, to show cause why an order should not be granted to the executor or administrator to sell so much of the real estate of the deceased as shall be requisite to pay such allowance, charges and debts.

**§ 6. Notice of Such Order: Service of.—SEC. 105.** A copy of such order to show cause shall be personally served on all persons interested in the estate, at least ten days before the time appointed for hearing the petition, or shall be published at least four successive weeks in such newspaper as the court shall order: *Provided, however, If all persons interested in the estate shall signify, in writing, their assent of such sale, the notice may be dispensed with.*

**§ 7. Proof of Service.—SEC. 106.** The probate judge, at the time and place appointed in such order, or at such other time to which the hearing may be adjourned, upon proof of the due service or publication of a copy of the order, or upon filing the consent, in writing, to such sale of all parties interested, shall proceed to the hearing of such petition; and if such consent be not filed, shall hear and examine the allegations and proofs of the petitioners and of all persons interested in the estate who may oppose the application.

**§ 8. Service on Guardian.—SEC. 107.** If any of the devisees or heirs of the deceased are minors and have a general guardian in the county, the copy of the order shall be served on the guardian. If they have no such guardian, the court shall, before proceeding to act on the petition, appoint some disinterested person their guardian for the sole purpose of appearing for them and taking care of their interests in the proceedings.

\* \* \* \* \*

**§ 9. In What Case Court May Authorize Sale.—SEC. 108.** If it shall appear to the court that it is necessary to sell a part of the real estate, and that by a sale of such part the residue of the estate or some specific part or piece thereof would be greatly injured, the court may authorize the sale of the whole estate or of such part thereof as may be adjudged necessary and most for the interest of all concerned.

**§ 10. Order For Sale.—SEC. 110.** If the probate judge shall be satisfied, after a full hearing upon the petition and on examination of the proofs and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for the payment of the allowance to the family, and all valid claims against the estate and charges of administration, or if such sale be assented to by all the persons interested, he shall make an order of sale authorizing the executor or administrator

to sell the whole or so much and such parts of the real estate described in the petition as he shall judge necessary or beneficial.

§ 11. **What Order Shall Specify.**—SEC. 111. The order shall specify the lands to be sold and the terms of sale, which may be either for cash or on credit not exceeding six months, as the court may direct. If it appear that any part of such real estate has been devised and not charged in such devise with the payment of debts, the court shall order that part descended to heirs to be sold before that so devised.

§ 12. **Any Person May Apply for Order if Executor Neglects.**—SEC. 112. If the executor or administrator shall neglect to apply for an order of sale whenever it may be necessary, any person interested in the estate may make application therefor, in the same manner as an executor or administrator, and notice thereof shall be given to the executor or administrator before the hearing.

§ 13. **Order is Authority for Sale.**—SEC. 113. Upon making such order the clerk of the probate court shall deliver [it] to the executor or administrator, who shall be thereupon authorized to sell the real estate as directed.

§ 14. **Notice of Sale.**—SEC. 114. When a sale is ordered, notice of the time and place of sale shall be posted in ten of the most public places in the county where the land is situated at least twenty days before the day of sale, and shall be published in some newspaper in this Territory, in general circulation in said county, for three successive weeks next before such sale, in which notice the lands and tenements shall be described with common certainty.

§ 15. **Venue.**—SEC. 115. Such sale shall be in the county where the lands are situated, at public auction, between the hours of ten o'clock in the morning and the setting of the sun the same day; but if the executor or administrator shall deem it for the interest of all concerned that the sale should be postponed, he may adjourn it for any time not exceeding fourteen days.

§ 16. **Adjournments.**—SEC. 116. In case of such adjournment, notice thereof shall be given by a public proclamation at the time and place first appointed for the sale, and if the adjournment shall be for more than one day, further notice shall be given by posting or publishing, as the time and circumstances may admit.

§ 17. **Security for Purchase Money.**—SEC. 117. The executor or administrator shall, when the sale is on credit, take the note or notes of the purchaser for the purchase money, with surety and mortgage on the property to secure their payment.

§ 18. **Return of Sale.**—SEC. 118. The executor or administrator making any sale of real estate shall, at the next term of the court thereafter, make a return of his proceedings to the probate judge, who shall examine the same, and if he shall be of opinion that the proceedings were unfair, or that the sum bidden is disproportionate to the value, and that a sum exceeding such bid at least ten per cent., exclusive of expenses of a new sale, may be obtained, he shall vacate such sale and order another to be had, of which notice shall be given, and the sale shall be conducted in all respects as if no previous sale had taken place.

§ 19. **Confirmation: Objections to.**—SEC. 119. When the return of the sale is made any person interested in the estate may file written objections to the confirmation of the sale, and may be heard and produce witnesses in support of his objections.

§ 20. **Confirmation and Conveyance.** SEC. 120. If it appear to the court that the sale was legally made and fairly conducted, and that the sum bidden was not disproportionate to the value of the property sold, or if disproportionate, that a greater sum, as above specified, cannot be obtained, the court shall make an order confirming the sale and directing



conveyances to be executed, and such sale from that time shall be confirmed and valid.

§ 21. **Conveyances: What Shall State—Force and Effect.**—SEC. 121. Such conveyances shall thereupon be executed to the purchaser, by the executor or administrator. They shall contain and set forth, at large, the original order authorizing the sale, and the order confirming the same<sup>1</sup> and directing the conveyances; and they shall be deemed to convey all the estate, rights and interest of the testator or intestate at the time of his death.

§ 22. **Notice: Court Must be Satisfied.**—SEC. 122. Before any order is entered confirming the sale, it shall be proven to the satisfaction of the probate judge<sup>2</sup> that notice of the sale was given as herein prescribed, and the order of confirmation shall state that such proof was made.

§ 23. **Effect of Legacy When a Charge on Real Estate.**—SEC. 123. When a testator shall have given any legacy, by will, that is effectual to charge real estate, and his goods, chattels, rights and credits shall be insufficient to pay such legacy, together with his debts and charges of administration, the executor or administrator with the will annexed may obtain an order to sell his real estate for that purpose, in the same manner and upon the same terms and conditions as are prescribed in this act in case of a sale for the payment of debts.

§ 24. **Testator May Direct How Debts Paid.**—SEC. 124. If the testator shall make provision by his will, or designate the estate to be appropriated for the payment of his debts, the expenses of administration, or family expenses, they shall be paid according to the provision of the will, and out of the estate thus appropriated, so far as the same may be sufficient.

§ 25. **In What Case Executor May Sell Without Order.**—SEC. 125. When any division has been made, or any property directed to be sold, the executor or administrator with the will annexed may proceed to sell without the order of the probate court; but he shall be bound as an administrator to give notice of the sale, and to proceed in making the sale, in all respects, as if he were under the order of the court, unless there are special directions given in the will, in which case he shall be governed by such directions; but in all cases he shall make return of the sale to the probate court, who shall vacate such sale, unless the same shall appear, in all respects, to be made according to law, in like manner as upon sales made by administrators.

§ 26. **If Testator's Provisions Inadequate, Residue Shall be Appropriated.** SEC. 126. If the provision made by the will, or the estate appropriated, be not sufficient to pay the debts and expenses of administration and family expenses, such part of the estate as shall not have been disposed of by the will, if any, shall be appropriated for that purpose according to the provisions of this act.

§ 27. **All Estate Devised Liable for Debts, etc.**—SEC. 127. The estate, real and personal, given by the will to any legatees or devisees, shall be held liable for the payment of the debts, the expenses of administration and of the family, in proportion to the value or amount of the several devises or legacies, if there shall not be other sufficient estate, except that specific devises or legacies may be exempted, if it appear to the court necessary to carry into effect the intention of the testator if there shall be other sufficient estate.

§ 28. **Contribution: How Enforced.**—SEC. 128. When the estate given by any will has been sold for the payment of debts and expenses, all the devisees and legatees shall be liable to contribute, according to their re-

<sup>1</sup> See Nos. 535, 537, in/rm.

<sup>2</sup> See No. 537, in/rm.

spective interests, to any devisee or legatee from whom the estate devised to him may be taken for the payment of the debts or expenses; and the probate court when distribution is made shall, by decree for that purpose, settle the amount of the several liabilities, and decree how much each person shall contribute.

§ 29. **Contract for Conveyance: How Enforced.**—SEC. 129. If a deceased person, at the time of his death, was possessed of a contract for the purchase of lands, his interest in such land and under such contracts may be sold on the application of his executor or administrator, in the same manner as if he had died seized of such lands; and the same proceedings may be had for that purpose as are prescribed in this act in respect to lands of which he died seized, except as hereinafter provided.

§ 30. **Sale Subject to Deferred Payment—Bond of Indemnity.**—SEC. 130. Such sale shall be made subject to all payments that may thereafter become due on such contracts; and if there be any such payments thereafter to become due, such sale shall not be confirmed by the probate judge until the purchaser shall have executed a bond to the executor or administrator, for his benefit and indemnity, and for the benefit and indemnity of the persons entitled to the interest of the deceased, in the lands so contracted for, in double the whole amount of the payments thereafter to become due on such contract, with such securities as the probate judge shall approve.

§ 31. **Condition of Bond.**—SEC. 131. Such bond shall be conditioned that the purchaser will make all payments for such land as shall become due after the date of such sale, and will fully indemnify the executor or administrator and the persons so entitled against all demands, costs and charges and expenses by reason of any covenant or agreement contained in such contract; but if there be no payments thereafter to become due on such contract, no bond shall be required of the purchaser.

§ 32. **Assignment of Contract—Rights Conveyed.**—SEC. 132. Upon the confirmation of such sale, the executor or administrator shall execute to the purchaser an assignment of the contract, which assignment shall vest in the purchaser, his heirs and assigns, all the right, title and interest of the persons entitled to the interests of the deceased in the lands sold at the time of the sale; and such purchaser shall have the same rights and remedies against the vendor of such lands as the deceased would have had if living.

§ 33. **Redemption of Mortgaged Estate, Not Devised.**—SEC. 133. If any person die, having mortgaged any real or personal estate, and shall not have devised the same or provided for the redemption thereof by will, the probate court, upon the application of any person interested, may order the executor or administrator to redeem the estate out of the personal assets, if it should appear to the satisfaction of the court that such redemption would be beneficial to the estate and not injurious to creditors.

§ 34. **Sale and Conveyance of Such Estate.**—SEC. 134. If such redemption be not deemed expedient, the court shall order such property to be sold at public sale, which sale shall be with the same notice and conducted in the same manner as is required in other cases of real estate provided for in this act, and the executor or administrator shall execute a conveyance thereof to the purchaser, which conveyance shall be effectual to convey to the purchaser all the right, title and interest which the deceased would have had in the property had not the same been mortgaged by him, and the purchase money, after paying the expenses of sale, shall first be applied to the payment and discharge of such mortgage, and the residue in due course of administration.

\* \* \* \* \*

§ 35. **Limitation of Action.**—SEC. 137. No action for the recovery of any estate, sold by an executor under the provisions of this act, shall be

maintained by any person claiming under the deceased testator or intestate, unless it be commenced within three years next after the sale.

§ 36. **Limitation Not to Apply to Minors, etc.**—SEC. 138. The preceding section shall not apply to minors or others under any legal disability to sue at the time when the right of action shall first accrue, but all such persons may commence such action at any time within three years after the removal of the disability.

§ 37. **Return of Sale.**—SEC. 139. Whenever a sale shall have been made by an executor or administrator of any property of the estate, real or personal, it shall be his duty to return to the probate court, at its next term thereafter, an account of sales, verified by his affidavit.

§ 38. **Executors, etc., Shall Not Purchase.**—SEC. 140. No executor or administrator shall, directly or indirectly, purchase any property of the estate.

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**No. 536.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1830. (See Seventh Reg. Sess. 1859-60, pp. 165, 198, chap. 9, secs. 177 to 180, inclusive, 183 to 187, inclusive, and 189 to 220, inclusive.) This No. is *verbatim* as No. 535, *supra*, except § 21 of said No. at 2 instead of "same" read "sale." For repealing clause see No. 501, §§ 13 to 18, *supra*.

**No. 537.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 198, 238, secs. 210 to 214, inclusive, 217 to 221, inclusive, and 228 to 254, inclusive.) This No. is *verbatim* as No. 535, *supra*, except § 21 of said No. at 2 instead of "same" read "sale," and § 22 at 3 instead of "probate judge" read "probate court." For repealing clause, date in effect, etc., see No. 502, §§ 16 to 26. In effect from date.

**No. 538.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER X.

§ 2. **No Sale Valid Unless Ordered.**—SEC. 173. No sale of any property shall be valid unless made under order of the probate court.<sup>2</sup>

§ 3. **Application for Order.**—SEC. 174. All applications for orders of sale shall be by petition, in writing, in which shall be set forth the facts showing the sale to be necessary, and upon the hearing any person interested in the estate may file his written objections, which shall be heard and determined.

\* \* \* \* \*

§ 4. **In What Case Real Estate May be Sold.**—SEC. 180. When the personal estate in the hands of the executor or administrator shall be insufficient to pay the allowance to the family and all the debts and charges of the administration, the executor or administrator may sell the real estate for that purpose upon the order of the probate court. To obtain

<sup>1</sup> Approved Nov. 11, 1873. (See Fourth Bien. Sess. 1873, pp. 252, 288.) For repealing clause, date in effect, etc., see No. 506, §§ 13 to 17, *supra*.

<sup>2</sup> See No. 589, *infra*.

such order he shall present a petition to the court setting forth the amount of the personal estate that has come to his hands, and how much, if any, remains undisposed of, a list and the amounts of the debts outstanding against the deceased, as far as the same can be ascertained, a description of all the real estate of which the testator or intestate died seized, the condition and value of the respective lots and portions, the names and ages of the devisees, if any, and of the heirs of the deceased, which petition shall be verified by the oath of the party presenting the same.

**§ 5. Order to Show Cause.**—SEC. 181. If it shall appear by such petition that there is not sufficient personal estate in the hands of the executor or administrator to pay the allowance to the family, the debts outstanding against the deceased and the expenses of administration, and that it is necessary to sell the whole or some portion of the real estate for the payment of such debts, the probate court shall thereupon make an order directing all persons interested to appear at a time and place specified, not less than four nor more than eight weeks from the time of making such order, to show cause why an order should not be granted to the executor or administrator to sell the real estate of the deceased, or so much thereof as shall be necessary, as shall be requisite to pay such allowances, charges and debts.

**§ 6. Notice of Such Order: Service of.** SEC. 182. A copy of such order to show cause shall be personally served on all persons interested in the estate at least ten days before the time appointed for hearing the petition, or shall be published at least four successive weeks in such newspaper as the court shall order: *Provided, however,* If all persons interested in the estate shall signify in writing their assent to such sale, the notice may be dispensed with.

**§ 7. Proof of Service.**—SEC. 183. The probate court, at the time and place appointed in such order, or at such other time to which the hearing may be adjourned, upon proof of the due service or publication of a copy of the order, or upon filing the consent in writing to such sale of all parties interested, shall proceed to the hearing of such petition, and if such consent be not filed, shall hear and examine the allegation and proofs of the petitioners, and of all persons interested in the estate who may oppose the application.

**§ 8. Service of Guardian.**—SEC. 184. If any of the devisees or heirs of the deceased are minors and have a general guardian in the county, the copy of the order shall be served on the guardian. If they have no such guardian the court shall, before proceeding to act on the petition, appoint some disinterested person their guardian, for the sole purpose of appearing for them and taking care of their interests in the proceedings.

\* \* \* \* \*

**§ 9. In What Case Court May Authorize Sale.**—SEC. 186. If it shall appear to the court that it is necessary to sell a part of the real estate, and that by a sale of such part the residue of the estate or some specific part or piece thereof would be greatly injured, the court may authorize the sale of the whole estate, or of such part thereof as may be adjudged necessary, and most of the interest of all concerned.

**§ 10. Order for.**—SEC. 187. If the probate court shall be satisfied, after a full hearing upon the petition, and on examination of the proofs and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for the payment of the allowance to the family and all valid claims against the estate and charges of administration, or if such sale be assented to by all the persons<sup>a</sup> interested, he shall make an order of sale authorizing the executor or administrator to

<sup>a</sup> See No. 539, *infra*.



sell the whole or so much and such parts of the real estate described in the petition as he shall judge necessary or beneficial.

§ 11. **What Order Shall Specify.**—SEC. 188. The order shall specify the lands to be sold and the terms of sale, which may be either for cash or on credit, and not exceeding six months, as the court may direct. If it appear that any part of such real estate has been devised and not charged in such devise with the payment of debts, the court shall order that part descended to heirs to be sold before that so devised.

§ 12. **Any Person May Apply for Order if Executor Neglects.**—SEC. 189. If the executor or administrator shall neglect to apply for an order of sale whenever it may be necessary, any person interested in the estate may make application therefor in the same manner as an executor or administrator, and notice thereof shall be given to the executor or administrator before hearing.

§ 13. **Order is Authority for Sale.**—SEC. 190. Upon making such order the clerk of the probate court shall deliver it to the executor or administrator, who shall thereupon be authorized to sell the real estate as directed.

§ 14. **Notice of.**—SEC. 191. When a sale is ordered, notice of the time and place of sale shall be posted in ten of the most public places in the county where the land is situated, at least twenty days before the day of sale, and shall be published in some newspaper in this Territory, in general circulation in said county, for three successive weeks next before such sale in which notice the lands and tenements shall be described with proper certainty.

§ 15. **Venue.**—SEC. 192. Such sale shall be in the county where the lands are situated, at public auction, between the hours of ten o'clock in the morning and the setting of the sun the same day, but if the executor or administrator shall deem it for the interest of all concerned that the sale should be postponed, he may adjourn it for any time not exceeding fourteen days.

§ 16. **Adjournments.**—SEC. 193. In case of such adjournment, notice thereof shall be given by a public proclamation at the time and place first appointed for the sale, and if the adjournment shall be for more than one day, further notice shall be given by posting or publishing, as the time and circumstances may admit.

§ 17. **Security for Purchase Money.**—SEC. 194. The executor or administrator shall, when the sale is on credit, take the note or notes of the purchaser for the purchase money, with surety, and mortgage on the property to secure their payment.

§ 18. **Return of Sale.**—SEC. 195. The executor or administrator making any sale of real estate shall, at the next term of the court thereafter, make a return of his proceedings to the probate court, who shall examine the same, and if he shall be of opinion that the proceedings were unfair, or that the sum bidden is disproportionate to the value, and that a sum exceeding such bid at least ten per cent., exclusive of expenses of a new sale, may be obtained, he shall vacate such sale and order another to be had, of which notice shall be given, and the sale shall be conducted in all respects as if no previous sale had taken place.

§ 19. **Confirmation: Objections to.**—SEC. 196. When the return of the sale is made, any person interested in the estate may file written objections to the confirmation of the sale, and may be heard and produce witnesses in support of his objections.

§ 20. **Confirmation and Conveyance.**—SEC. 197. If it appear to the court that the sale was legally made and fairly conducted, and that the sum bidden was not disproportionate to the value of the property sold, or if disproportionate, that a greater sum, as above specified, cannot be obtained, the court shall make an order confirming the sale and directing

conveyances to be executed; and such sale from that time shall be confirmed and valid.

§ 21. **Conveyances: What Shall State = Force of.**—SEC. 198. Such conveyances shall thereupon be executed to the purchaser by the executor or administrator. They shall contain and set forth at large the original order \* authorizing a sale, and the order confirming the sale and directing the conveyance; and they shall be deemed to convey all the estate, rights and interest of the testator or intestate at the time of his death.

§ 22. **Notice: Court Must be Satisfied.**—SEC. 199. Before any order is entered confirming the sale, it shall be proven to the satisfaction of the probate court that notice of the sale was given as herein prescribed, and the order of confirmation shall state that such proof was made.

§ 23. **Effect of Legacy When a Charge on Real Estate.**—SEC. 200. When a testator shall have given any legacy by will that is effectual to charge real estate, and his goods, chattels, rights and credits shall be insufficient to pay such legacy, together with its debts and charges of administration, the executor or administrator with the will annexed may obtain an order to sell his real estate for that purpose in the same manner and upon the same terms and conditions as are prescribed in this act in case of a sale for the payment of debts.

§ 24. **Testator May Direct How Debts Paid.**—SEC. 201. If the testator shall make provision by his will, or designate the estate to be appropriated for the payment of his debts, the expenses of administration or family expenses, they shall be paid according to the provision of the will, and out of the estate thus appropriated, so far as the same may be sufficient.

§ 25. **In What Case Executor May Sell Without Order.**—SEC. 202. When any division has been made or any property directed to be sold, the executor or administrator with the will annexed may proceed to sell without the order of the probate court; but he shall be bound as an administrator to give notice of the sale, and to proceed in making the sale in all respects as if he were under the order of the court, unless there are special directions given in the will, in which case he shall be governed by such directions, but in all cases he shall make return of the sale to the probate court, who shall vacate such sale unless the same shall appear in all respects to be made according to law in like manner as upon sales made by administrator.

§ 26. **If Testator's Provisions Inadequate, Residue Shall be Appropriated.**—SEC. 203. If the provision made by the will or the estate appropriated be not sufficient to pay the debts and expenses of administration and family expenses, such part of the estate as shall not have been disposed of by the will, if any, shall be appropriated for that purpose, according to the provisions of this act.

§ 27. **All Estate Devised Liable for Debts, etc.**—SEC. 204. The estate, real and personal, given by the will to any legatees or devisees, shall be held liable for the payment of the debts, the expenses of administration and of the family, in proportion to the value or amount of the several devises or legacies, if there shall not be other sufficient estate, except that specific devises or legacies may be exempted, if it appear to the court necessary to carry into effect the intention of the testator.

§ 28. **Contribution: How Enforced.**—SEC. 205. When the estate given by any will has been sold for the payment of debts and expenses, all the devisees and legatees shall be liable to contribute according to their respective interests, to any devisee or legatee from whom the estate devised to him may be taken for the payment of the debts or expenses; and the probate court when distribution is made shall, by decree for that purpose,

\* See No. 339, *infra*



settle the amount of the several liabilities and decree how much each person shall contribute

§ 29. **Contract for Conveyance: How Enforced.**—SEC. 206. If the deceased person at the time of his death was possessed of a contract for the purchase of lands his interest in such land under such contract may be sold on the application of his executor or administrator, in the same manner as if he had died seized of such lands; and the same proceedings may be had for that purpose as are prescribed in this act in respect to lands of which he died seized, except as hereinafter provided.

§ 30. **Sale Subject to Deferred Payments—Bond of Indemnity.**—SEC. 207. Such sale shall be made subject to all payments that may thereafter become due on such contract, and if there be any such payments thereafter to become due, such sale shall not be confirmed by the probate court until the purchaser shall have executed a bond to the executor or administrator for his benefit and indemnity, and for the benefit and indemnity of the persons entitled to the interest of the deceased in the lands so contracted for in double the whole amount of the payments thereafter to become due on such contract, with such securities as the probate court shall approve.

§ 31. **Condition of Bond.**—SEC. 208. Such bond shall be conditioned that the purchaser will make all payments for such land as shall become due after the date of such sale, and will fully indemnify the executor or administrator, and the person so entitled, against all demands, costs and charges and expenses by reason of any covenant or agreement contained in such contract, but if there be no payments thereafter to become due on such contract no bond shall be required of the purchaser.

§ 32. **Assignment of Contract: Rights Conveyed.**—SEC. 209. Upon the confirmation of such sale, the executor or administrator shall execute to the purchaser an assignment of the contract, which assignment shall vest in the purchaser, his heirs and assigns, all the right, title and interest of the persons entitled to the interest of the deceased in the land sold at the time of the sale, and such purchaser shall have the same rights and remedies against the vendor of such lands as the deceased would have had if living.

§ 33. **Redemption of Mortgaged Estate, Not Devised.**—SEC. 210. If any person die, having mortgaged any real or personal estate, and shall not have devised the same or provided for the redemption thereof by will, the probate court upon the application of any person interested, may order the executor or administrator to redeem the estate out of the personal assets, if it should appear to the satisfaction of the court that such redemption would be beneficial to the estate and not injurious to creditors.

§ 34. **Sale and Conveyance of Such Estate.**—SEC. 211. If such redemption be not deemed expedient, the court shall order such property to be sold at public sale, which sale shall be with the same notice and conducted in the same manner as required in other cases of real estate provided for in this act and the executor or administrator shall thereupon execute a conveyance thereof to the purchaser, which conveyance shall be effectual to convey to the purchaser all the right, title and interest which the deceased would have had in the property had not the same been mortgaged by him and the purchase money, after paying the expenses of the sale, shall first be applied to the payment and discharge of such mortgage and the residue in due course of administration. If said sale of the mortgaged premises shall be insufficient to secure the mortgage debt, the mortgagee shall file a claim for balance, authenticated as other claims and payable in due course of administration.

\* \* \* \* \*

No. 539.—PROBATE PRACTICE ACT.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, pp. 231, 257, chap. 105, secs. 1486, 1487, 1493 to 1497, inclusive, 1499 to 1524, inclusive, 1527.) This No. is *verbatim* as No. 538, *supra*, except § 2 of said No. at \* after "probate court" read "unless otherwise provided by will," and § 10 at \* instead of "persons" read "parties," and § 21 at \* instead of "they shall contain and set forth at large the original order" read "they shall refer to the original order," and the following (which does not appear in said No.) appears in the Code as sec. 1527: "When property is directed by will to be sold, or authority is given in the will to sell property the executor may sell any property of the estate without the order of the probate court, and either at public or private sale, and with or without notice, as the executor may determine, but the executor must make return of such sales as in other cases; and if directions are given in the will as to the mode of selling, or the particular property to be sold, such directions must be observed. In either case no title passes unless the sale is confirmed by the court." For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

No. 540.—AN ACT TO AMEND SECTION 1504 OF CHAPTER 105 OF THE CODE OF WASHINGTON TERRITORY, RELATING TO SALES OF PROPERTY BY EXECUTORS AND ADMINISTRATORS.<sup>1</sup>

§ 1. **Notice of Sale.**—*Be it enacted, etc.*, SECTION 1. That section 1504<sup>2</sup> of the Code of Washington Territory be and the same is hereby amended to read as follows. Sec. 1504. When a sale is ordered, notice of the time and place of sale shall be posted in three of the most public places in the county where the land is situated, at least twenty days before the day of sale, and shall be published in some newspaper of said county if any there be, and if not, in some newspaper of this Territory in general circulation in said county, for three successive weeks next before such sale, in which notice the lands and tenements shall be described with proper certainty.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 27, 1888. (See Eleventh Bien. Sess. 1887-88, p. 187.) In effect from date.

<sup>2</sup> See No. 539 and 538, § 14, *supra*.

No. 541.—AN ACT TO AMEND CHAPTER CV OF THE CODE OF WASHINGTON TERRITORY, ENTITLED "SALES OF PROPERTY BY EXECUTORS AND ADMINISTRATORS."<sup>1</sup>

§ 1. **Redemption of Mortgaged Estate.**—*Be it enacted, etc.* SECTION 1. That there be and is hereby added to chapter cv<sup>2</sup> of the Code of Washington Territory a new section, to be designated section 1523½. Section 1523½. If it shall be made to appear to the satisfaction of the probate court that it will be to the interest of the estate of any deceased person to sell other real or personal estate of the decedent than that mortgaged by him to redeem the real estate so mortgaged, the probate court may order any real or personal estate of the decedent which it may deem expedient to be sold for such purpose, which sale shall be conducted in all respects as other sales of like property ordered by the probate court.

\* <sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 185.)

<sup>2</sup> See No. 539, *supra*.

3. ACTIONS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

**No. 542.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER LVIII.

§ 2. **For Death of Person.**—SEC. 658. When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action at law therefor against the latter, \* \* \*

§ 3. **Other Causes.**—SEC. 659. All other causes of action by one person against another, whether arising on contract or otherwise, survive to the personal representatives of the former and against the personal representatives of the latter. Where the cause of action survives, as herein provided, the executors or administrators may maintain an action at law thereon against the party against whom the cause of action accrued, or after his death against his personal representatives.

§ 4. **Against Several Executors, etc.: How Considered.**—SEC. 660. In an action against several executors or administrators, they shall all be considered as one person representing their testator or intestate, and judgment may be given and execution issued against all of them who are defendants in the action, although the notice be served only on part of them, in the same manner and with like effect as if served on all, \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blen. Sess. 1868-69, pp. 3, 165.) For repealing clause see Nos. 119 and 118, § 3.

**No. 543.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Blen. Sess. 1873, pp. 3 and 169, chap. 58, secs. 656, 657, 658.) This No. is *verbatim* as No. 542, *supra*. For repealing clause see No. 121, § 3.

**No. 544.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Blen. Sess. 1877, pp. 3, 145, chap. 58, secs. 721, 722, 723.) This No. is *verbatim* as No. 542, *supra*. For repealing clause see No. 122, §§ 3, 4.

**No. 545.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Dec. 1, 1881. (See Code 1881, pp. 35, 149, chap. 61, secs. 717, 718, 719.) This No. is *verbatim* as No. 542, *supra*. For repealing clause, date in effect, etc., see Nos. 338, 339, 340.



## 4. SETTLEMENT OF ESTATES WITHOUT ADMINISTRATION.

**No. 546.—AN ACT TO REDUCE THE COSTS AND EXPENSES IN THE ADMINISTRATION OF ESTATES, AND TO PROVIDE FOR THE EXECUTION OF THE PROVISIONS OF WILLS IN CERTAIN CASES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **In What Cases May be Had — Manner of.**—SEC. 2. That in all cases where it is provided in the last will and testament of the deceased that the estate shall be settled in a manner provided in such last will and testament, and that letters testamentary or of administration shall not be required, it shall not be necessary to take out letters testamentary or of administration except to admit to probate such will in the manner required by existing laws, and after the probate of such will all such estates may be managed and settled without the intervention of the probate court, if the said last will and testament so provides: *Provided, however,* In all such cases, if the party named in such will as executor shall decline to execute the trust, or shall die or be otherwise disabled from any cause from acting as such executor, then letters testamentary or of administration shall issue as in other cases: *And provided further,* If the party named in the will shall fail to execute the trust faithfully and to take care and promote the interests of all parties taking under the will, then upon petition of any creditor of such estate, or of any of the heirs, or of any person on behalf of any minor heirs, it shall be the duty of the probate court of the county wherein such estate is situated to cite such person having the management of such estate to appear before such court, and if, upon hearing of such petition, it shall appear that the trust in such will is not faithfully discharged, and that the parties interested, or any of them, have been or are about to be damaged by such acts or doings of the executor, then letters testamentary or of administration shall be had and required in such cases, and all other matters and proceedings shall be had and required as are now required in the administration of estates, and in such cases the costs of the citation and hearing shall be charged against the party failing and neglecting to execute the trust as required in such will.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 29, 1868. (See First Bien. Sess. 1868, p. 49.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 547.—AN ACT AUTHORIZING THE SETTLEMENT OF ESTATES OF PERSONS DYING INTESTATE WITHOUT ADMINISTRATION.<sup>1</sup>**

§ 1. **In What Case May.**—SECTION 1. *Be it enacted, etc.,* That it shall be lawful for the legal representatives or survivors in interest of a person who may hereafter die intestate in this Territory to settle the estate of the decedent without taking out letters of administration, by complying with the provisions of this act

§ 2. **Persons Entitled to Priority of Benefits.**—SEC. 2. The following named persons shall have priority of right to the benefits of this act in the order hereinafter named, when their relatives, as hereinafter named, shall die intestate in Washington Territory: (1) When the wife shall die intestate, the husband (2) When the husband shall die intestate, the wife. (3) In case a widower die intestate, his child or children of lawful age. (4) In case a widow shall die intestate, her child or children of lawful age. (5) When a single man or a single woman shall die intestate—

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 296.) In effect from date.



(1) The father; (2) The mother; (3) The brothers and sisters equally, or as many of them as shall join in complying with the provisions of this act.

§ 3. **How Privilege Availed.**—SEC. 3. The several persons named in the preceding section, in the order of priority therein named, may avail themselves of the benefits intended to be secured by this act, by application to the probate court of the county having jurisdiction of the estate of deceased who shall appoint three disinterested householders to appraise the estate of deceased intestate, of every name and nature, and return the same into the probate court of said county in a properly prepared inventory with the value of each article set opposite; and the probate judge shall find the sum total of the appraised value of said estate, and the person or persons applying for the benefit of this act shall make and file with the probate judge a bond with three or more resident freeholders of the county as sureties in double the appraised value of said estate conditioned that he, she or they will pay all the lawful debts of the deceased and perform all his or her lawful contracts relating to real or personal property, within one year from the date of said bond. \* \* \*

§ 4. **When Bond Shall be Filed.**—SEC. 4. The bond provided for in the last preceding section shall be made and filed as therein provided within forty days from the death of the intestate, or letters of administration shall issue as in other cases. \* \* \*

§ 5. **Notice.**—SEC. 5. The person or persons so applying, after the approval of his bonds shall publish for six consecutive weeks in some newspaper of general circulation in the county, or if there be none in the county then in such newspaper nearest to said county having a circulation in said county, and by posting notices in three public places, that he, she or they will pay all the lawful debts of the said deceased, and perform all his or her lawful contracts relating to real or personal property within one year from the date of said bond, and shall in said notice warn all persons to present their claims on the deceased at the dwelling house or place of business of the principal in said bond, or at such place of one of said bondsmen or sureties to said bond in the county where the bond is filed for payment or adjustment.

§ 6. **May Perform Contract to Convey Real Estate.**—SEC. 6. The creditors shall within said year present their claims to the principal in said bond, or to one of the sureties thereon, who shall accept or reject the same, in whole or in part, and endorse his action therein and return the same to the claimant within a reasonable time or he may pay the debt or as much thereof as he may deem just, or perform the contract of the deceased relating to real or personal property, the same as deceased might be compelled to do if living and as by this act required. \* \* \*

§ 7. **If Minor Children, Residue of Estate Shall be Held in Trust—Conveyance by Trustee.**—SEC. 8. If a wife or husband die leaving a minor child or children living who, under the law of distribution and descents in this Territory, are heirs at law of the estate of deceased intestate, and the surviving wife or husband is not the parent of such minor child or children, in such cases the principal in said bond, after paying all the debts and performing all the contracts of such deceased intestate, shall hold the rest and residue of such estate in trust for such minor child or children, subject to the estate in dower or curtesy of said wife or husband, such principal or principals in such bond shall be subject as aforesaid trustee of the whole estate with full power to sell and convey a sufficiency of said estate to satisfy all the claims against the estate presented, as required by this act, and the current expenses of the same, and sales made for such purpose shall be valid without the order of any court. And when the minor child or children shall become twenty-one years old or get married, said trustee shall convey all real estate to said child or children belonging to them, and deliver all personal property remaining,

and shall not be entitled to any further compensation; but said child or children shall first pay to said trustee all moneys actually expended by him for the education of said child or children and the actual cost of conveyance or delivery, before said children shall be entitled to said conveyance or delivery: *Provided*, That said trustee may by order of the district court sell and convey any or all of the real estate of said minor arising from such estates, also any and all of such personal property, for the proper education of such minors. *And provided further*, That if the surviving husband or wife of such deceased shall not accept and comply with the provisions of this act, then the child or children of such deceased shall, if of lawful age, be entitled to the same. *And provided further*, That if the child or children of such deceased shall, at the death thereof, be twenty-one years old, or married, such child or children shall, as soon as the claims against said estate and current expenses thereof shall be satisfied, be entitled to his or her part of the residue thereof on payment to the said trustee the actual cost of conveyance or delivery.

§ 8. **Notice: Effect of.**—SEC. 9. In all cases where the brothers and sisters of the deceased shall apply for the benefits of this act, those applying shall notify any non-resident brothers or sisters, either by six weeks' publication or satisfy the probate court that personal notice has been given; and resident brothers and sisters shall have actual personal notice. After such notice is given, those notified who fail to appear and join in said bond shall forfeit all claim to participate in the management and settlement of the estate, and be limited in their respective interests or shares in the residue thereof. Those executing the bond required by this act shall be trustees of the entire estate, and liable upon their bond for its proper management, as in this act prescribed.

§ 9. **In What Case Letters May Issue.**—SEC. 10. Nothing herein contained shall be so construed as to prevent the probate court of the proper county issuing letters of administration at the end of the forty days recited in section four, if at that time no bond has been filed in accordance with the provisions of this act.

\* \* \* \* \*

**No. 548.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*

CHAPTER VI.

§ 2. **In What Case May be Had—Manner of.**—SEC. 128. In all cases where it is provided in the last will and testament of the deceased that the estate shall be settled in a manner provided in such last will and testament, and that letters testamentary or of administration shall not be required, it shall not be necessary to take out letters testamentary or of administration, except to admit to probate such will in the manner required by existing laws, and after the probate of such will, all such estates may be managed and settled without the intervention of the probate court, if the said last will and testament so provides: *Provided, however*, In all such cases if the party named in such will as executor shall decline to execute the trust, or shall die or be otherwise disabled from any cause from acting as such executor, then letters testamentary or of administration shall issue as in other cases. *And provided further*, If the party named in the will shall fail to execute the trust faithfully and to take care and

<sup>1</sup>Approved Nov. 11, 1873. (See Fourth Blen. Sess. 1873, pp. 252, 266.) For repealing clause see No. 121, § 3.



promote the interests of all parties taking under the will, then upon petition of any creditor of such estate, or of any of the heirs, or of any person on behalf of any minor heirs, it shall be the duty of the probate court of the county wherein such estate is situated to cite such person having the management of such estate to appear before such court, and if, upon hearing of such petition, it shall appear that the trust in such will is not faithfully discharged, and that the parties interested or any of them have been or are about to be damaged by such acts or doings of the executor, then letters testamentary or of administration shall be had and required in such cases, and all other matters and proceedings shall be had and required as are now required in the administration of estates, and in such cases the costs of the citation and hearing shall be charged against the party failing and neglecting to execute the trust as required in such will.

**No. 549.—PROBATE PRACTICE ACT.<sup>1</sup>**

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 250, sec. 1443.) This No. is verbatim as No. 548, *supra*. For date in effect, repealing clause, etc., see Nos. 338, 339, 340.

**CHAPTER IV.—PARTITION AND DISTRIBUTION.**

**No. 550.—AN ACT RESPECTING EXECUTORS, ADMINISTRATORS, AND THE DISTRIBUTION OF REAL AND PERSONAL ESTATE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

**CHAPTER IX.**

§ 2. **Petition for.**—SEC. 195. At any time after six months after the time of issuing letters testamentary or of administration, any heir, legatee or devisee may present his petition to the court that the legacy or share of the estate to which he is entitled may be given to him upon his giving bonds with security for the payment of his proportion of the debts of the estate.

§ 3. **Notice.**—SEC. 196. Notice of the application shall be given to the executor or administrator and to all persons interested in the estate, in the same manner that notice is required to be given of the settlement of the account of the executor or administrator.

§ 4. **Executor, etc., May Resist Petition.**—SEC. 197. The executor, administrator or any person interested in the estate may appear and resist the application; or any other heir, legatee or devisee may make a similar resistance<sup>2</sup> for himself.

§ 5. **Decree.**—SEC. 198. If, on the hearing, it appear to the court that the estate is but little in debt, and that the share of the party or parties applying may be allowed without injury to the creditors of the estate, the court shall make a decree in conformity with the prayer of the applicant or applicants: *Provided*, Each one of them shall first execute

<sup>1</sup> No date given. (See First Reg. Sess. 1854, pp. 266, 300.) For repealing clause, etc. see No. 498.

<sup>2</sup> See Nos. 551, 552, 553, 554, *infra*.

and deliver to the executor or administrator a bond in such sum as shall be designated by the probate judge, and with sureties to be approved by him, payable to the executor or administrator, conditioned for the payment by the devisee or legatee, whenever required, of his proportion of the debts due from the estate.

§ 6. **Extent of Decree.**—SEC. 199. Such decree may order the executor or administrator to deliver to the heir, devisee or legatee the whole portion of the estate to which he may be entitled, or only a part thereof.

§ 7. **Petition in Certain Case.**—SEC. 200. If in the execution of such decree any partition be necessary between two or more of the parties interested, it shall be made in the manner hereinafter prescribed.

\* \* \* \* \*

§ 8. **Distribution of Residue.**—SEC. 202. Upon the final \* settlement of the accounts of the executor or administrator, or at any subsequent time upon the application of the executor or administrator, or any heir, devisee or legatee, the court shall proceed to distribute the residue of the estate, if any, among the persons who are by law entitled.

§ 9. **Decree: What Shall State.**—SEC. 203. In the decree the court shall name the person and the portion or parts to which each shall be entitled, and such persons shall have the right to demand and recover their respective shares from the executor or administrator, or any person having the same in possession.

§ 10. **Who May Apply for.**—SEC. 204. The decree may be made on the application of the executor or administrator, or of any person interested in the estate, and shall only be made after notice has been given in the manner required in regard to an application for the sale of land by an executor or administrator. The court may order such further notice to be given as it may deem proper.

§ 11. **Estates Held in Common.**—SEC. 205. When the estate, real and personal, assigned to two or more heirs, devisees or legatees, shall be in common and undivided, and the respective shares shall not be separated and distinguished, partition and distribution may be made by three disinterested persons, to be appointed commissioners for that purpose by the probate judge,\* who shall be duly sworn to the faithful discharge of their duties, and the court shall issue a warrant to them for that purpose.

§ 12. **If Estate in Different Counties.**—SEC. 206. If the real estate be in different counties, the probate court may, if it shall judge proper, appoint different commissioners for each county; and in such cases the estate in each county shall be divided separately, as if there were no other estate to be divided, but the commissioners first appointed shall, unless otherwise directed by the probate court, make division of such real estate wherever situated within the Territory.

§ 13. **Notice of Application for.**—SEC. 207. Such partition and distribution may be ordered on the petition of any of the persons interested in the estate; but before any partition shall be ordered as directed in this act, notice shall be given to all persons interested who shall reside in this Territory, or to their guardians, and to agents, attorneys or guardians, if there be any in this Territory, of such as reside out of the Territory, either personally or by public notice, as the probate judge may direct.

§ 14. **If Interests of Devisees Have Been Assigned, Assignee Shall Receive.**—SEC. 208. Partition of the real estate may be made as provided in this act, although some of the original heirs or devisees may have conveyed their shares to other persons, and such shares shall be assigned to the person holding the same in the same manner as they otherwise would have been to such heirs or devisees.

\* See Nos. 551, 552, 553, 554, *infra*.

\* See Nos. 552, 553, 554, *infra*.



§ 15. **How Shares Measured Off.**—SEC. 209. The several shares in the real and personal estate shall be set out to each individual in proportion to his right, by such metes, bounds and descriptions that the same may be easily distinguished, unless two or more of the parties shall consent to have their shares set out so as to be held by them in common and undivided.

§ 16. **In What Case Estate May Go to One Party.**—SEC. 210. When any such real estate cannot be divided without prejudice or inconvenience to the owners, the probate court may assign the whole to one or more of the parties entitled to share therein who will accept it [always preferring the males to the females, and among children, preferring the elder to the younger],<sup>a</sup> providing the party so accepting the whole shall pay to the other parties interested their just proportion of the true value thereof, or secure the same to their satisfaction, and the true value of the estate shall be ascertained by commissioners appointed by the probate court, and sworn for that purpose.

§ 17. **If Estate Cannot be Partitioned Equally, How Adjusted.**—SEC. 211. When any tract of land or tenement shall be of greater value than either party's share in the estate to be divided, and cannot be divided without injury to the same, it may be set off by the commissioners appointed to make partition to either of the parties who will accept it, giving preference as prescribed in the preceding sections: *Provided*, The party so accepting shall pay or secure to one or more of the others such sums as the commissioners shall award to make the partition equal, and the commissioners shall make their award accordingly; but such partitions shall not be established by the court until the sums so awarded shall be paid to the parties entitled to the same, or secured to their satisfaction.

§ 18. **When May be Sold—Order for.**—SEC. 212. When it cannot be otherwise fairly divided, the whole or any part of the estate, real or personal, may be recommended by the commissioners to be sold; and if the report be confirmed the court may order a sale by the executor or administrator, or by an agent appointed for the purpose, and distribute the proceeds.

§ 19. **Estate Held in Common Shall be First Separated.**—SEC. 213. When partition of real estate among heirs or devisees shall be required, and such real estate shall be undivided and in common with the real estate of any other person, the commissioners shall first divide and sever the estates of the deceased from the estate with which it lies in common; and such division so made and established by the probate court shall be binding upon all the persons interested.

§ 20. **Guardians and Agents: When Necessary.**—SEC. 214. Before any partition shall be made or any estate divided, as provided in this act, guardians shall be appointed for all minors and insane persons interested in the estate to be divided, and some discreet person shall be appointed to act as agent for such parties as reside out of the Territory; and notice of the appointment of such agent shall be given to the commissioners in their warrant, and notice shall be given to all persons interested in the partition, their guardians or agents, by the commissioners, of the time when they shall proceed to make partition.

§ 21. **Report of Commissioners: Effect of.**—SEC. 215. The commissioners shall make a report of their proceedings, in writing, to probate court, and the court may, for sufficient reasons, set aside such report and remit the same to the same commissioners, or appoint others; and the report, when finally accepted and established, shall be recorded in the probate court, and a copy thereof, attested by the judge of probate<sup>b</sup>, under

<sup>a</sup> See Nos. 552, 553, 554, *infra*.

<sup>b</sup> See Nos. 553, 554, *infra*. The [ ] do not appear in this act; they are inserted for convenient reference.

the seal of the court, shall be recorded in the office of the recorder in the county where the land lies.

§ 22. **When Commissioners Unnecessary.**—SEC. 216. When the probate court shall make a decree assigning the residue of any estate to one or more persons entitled to the same, it shall not be necessary to appoint commissioners to make partition or distribution of such estate unless the parties to whom the assignment shall have been decreed, or some of them, shall request that such partition be made.

§ 23. **Questions of Advancements to be Determined.**—SEC. 217. All questions as to advancements made or alleged to have been made by the deceased to any heirs, may be heard and determined by the probate court, and shall be specified in the decree assigning the estate, and in the warrant to the commissioners, and the final decree of the probate court, or in case of appeal, of the district or supreme courts, shall be binding on all parties interested in the estate.

§ 24. **Agents for Non-Residents.**—SEC. 218. When any estate shall have been assigned by decree of the court, or distributed by commissioners, as provided in this act, to any person residing out of this Territory, and having no agent therein, and it shall be necessary that some person should be authorized to take possession and charge of the same for the benefit of such absent person, the court may appoint an agent for that purpose, and authorize him to take charge of such estate, as well as to act for such absentee in the partition and distribution.

§ 25. **Bond of Agent.**—SEC. 219. Such agent shall give a bond to the Territory of Washington, to be approved by the probate judge, conditioned faithfully to manage and account for such estate, before he shall be authorized to receive the same, and the court appointing such agent may allow a reasonable sum out of the profits of the estate for his services and expenses.

§ 26. **Estate Unclaimed for One Year to be Sold.**—SEC. 220. When the estate shall have remained in the hands of the agent unclaimed for one year, it shall be sold under the order of the court, and the proceeds, deducting the expenses of sale to be allowed by the court, shall be paid into the Territorial treasury. When the payment is made, the agent shall take from the treasurer duplicate receipts, one of which he shall file in the office of the Territorial auditor and the other in the probate court.

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#### **No. 551.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, pp. 165, 215, chap. 13, secs. 275 to 280, inclusive, 283 to 301, inclusive.) This No. is *verbatim* as No. 550, *supra*, except at § 4 of said No. at 2 instead of "resistance" read "application," and § 8 at 3 omit "final." For repealing clause, etc., see No. 501, §§ 13 to 18.

#### **No. 552.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 198, 255, chap. 16, secs. 309 to 314, inclusive, 317 to 335.) This No. is *verbatim* as No. 550, *supra*, except § 4 of said No. at 3 instead of "resistance" read "application," and § 8 at 3 omit "final," and § 11 at 4 instead of "probate judge" read "probate court," and § 21 at 5 instead of "the judge of probate" read "the judge," omitting "of probate." All conflicting laws and parts of laws repealed. In effect from date. (See No. 502, §§ 16 to 26.)



**No. 553. AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 11, 1873. See Fourth Bien. Sess. 1873, p. 306, chap. 16, secs. 266 to 271, inclusive 276 to 284, inclusive.) This No. is *verbatim* as No. 550, *supra*, except § 4 of said No. at 2 instead of "resistance" read "application," and § 8 at 2 omit "final," and § 11 at 4 instead of "probate judge" read "probate court," and § 16 at 2 omit that part included in [ ] and § 21 at 5 instead of "the judge of probate" read "the judge," omitting "of probate." For repealing clause, etc., see No. 506, §§ 13 to 17.

**No. 554.—PROBATE PRACTICE ACT.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 266, chap. 106, secs. 1573 to 1578, inclusive, 1581 to 1599 inclusive.) This No. is *verbatim* as No. 550, *supra*, except § 4 of said No. at 2 instead of "resistance" read "application," and § 8 at 2 omit "final," and § 11 at 4 instead of "probate judge" read "probate court," and at 2 omit that part included in [ ], and § 1 at 6 instead of "the judge of probate" read "the judge" omitting "of probate." For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

**TITLE XI.—DIVORCE.**

**No. 555.—AN ACT REGULATING DIVORCES.<sup>1</sup>**

§ 1. **Causes for.**—SECTION 1. *Be it enacted, etc.,* That divorces may be granted by the district court, on application of the party injured, for the following causes: (1) When the consent to the marriage of the party applying for the divorce was obtained by force or fraud, and there has been no subsequent voluntary cohabitation; (2) For adultery on the part of the wife, or of the husband, when unforgiven, and application is made within one year after it shall come to his or her knowledge (3) Impotency (4) Abandonment for one year. (5) Cruel treatment of either party by the other (6) Habitual drunkenness of either party, or the neglect or refusal of the husband to make suitable provisions for his family (7) The imprisonment of either party in the penitentiary, if complaint is filed during the term of such imprisonment. And divorce may be granted on application of either party for any other cause deemed by the court sufficient, or where the court shall be satisfied that the parties can no longer live together.

§ 2. **Either Party May Apply.**—SEC. 2. When there is any doubt as to the facts rendering a marriage void, either party may apply for and on proof obtain a decree of nullity of marriage.

§ 3. **Residence for One Year Required.**—SEC. 3. Any person who has been a resident of the Territory for one year may file his or her complaint for a divorce or decree of nullity of marriage under oath in the district court of the county where he or she may reside, and like proceedings shall be had thereon as in civil cases.

\* \* \* \* \*

§ 4. **Disposition of Property—Care, etc., of Children.**—SEC. 8. In granting a divorce the court shall also make such disposition of the prop-

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 403.)

erty of the parties as shall appear just and equitable, having regard to the respective merits of the parties and to the condition in which they will be left by such divorce, and to the party through whom the property was acquired, and to the burdens imposed upon it for the benefit of the children, and shall make provision for the guardianship, custody and support and education of the minor children of such marriage

§ 5. **Decree: Force and Effect of—Change of Name.**—SEC 9. Whenever an order of divorce from the bonds of matrimony is granted in this Territory by a court of competent authority, such order shall fully and completely dissolve the marriage as to both parties. And in all suits for a divorce, if a divorce be granted, the court may for just and reasonable cause change the name of such female, who shall thereafter be known and called by such name as the court shall in its order or decree appoint.

\* \* \* \* \*

**No. 556.—AN ACT TO REGULATE THE GRANTING OF DIVORCES IN CERTAIN CASES.<sup>1</sup>**

§ 1. **In Case of Absence for Five Years, No Notice Necessary: Exception.**—SECTION 1. *Be it enacted, etc.,* That in all applications to the district courts of this Territory for a divorce, where the complaint alleges the continued absence of the defendant for a period of five years or more, the court shall hear the cause without requiring notice to be given to the absent party by publication or otherwise; and if upon the hearing of the cause it shall be proven to the satisfaction of the court that the continued absence set forth in the complaint amounts to willful abandonment of the complainant, the court shall thereupon grant an order of divorce as in other cases: *Provided,* That none of the provisions of this act shall apply to cases where both parties are known to be residents of this Territory, or where the complainant shall not have resided two years in the Territory.

<sup>1</sup> Passed Jan. 24, 1857. (See Fourth Reg. Sess. 1856-57, p. 25.)

**No. 557.—AN ACT TO REGULATE SUITS FOR DIVORCE AND ALIMONY.<sup>1</sup>**

§ 1. **Causes for.**—SECTION 1. *Be it enacted, etc.,* That divorces may be granted by the district court on application of the party injured, for the following causes: (1) When the consent to the marriage of the party applying for the divorce was obtained by force or fraud and there has been no subsequent voluntary cohabitation. (2) For adultery on the part of the wife or of the husband when unforgiven, and application is made within one year after it shall come to his or her knowledge. (3) Impotency. (4) Abandonment for one year. (5) Cruel treatment of either party by the other. (6) Habitual drunkenness of either party, or the neglect or refusal of the husband to make suitable provisions for his family. (7) The imprisonment of either party in the penitentiary if complaint is filed during the term of such imprisonment. And divorce may be granted on application of either party for any other cause deemed by the court sufficient, or when the court<sup>2</sup> shall be satisfied that the parties can no longer live together.

§ 2. **Either Party May Apply.**—SEC 2. When there is any doubt as to the facts rendering a marriage void, either party may apply for and, on proof, obtain a decree of nullity of marriage.

§ 3. **Residence for One Year Required.**—SEC 3. Any person who has been a resident of the Territory for one year may file his or her com-

<sup>1</sup> Passed Jan. 23, 1860. (See Seventh Reg. Sess. 1859-60, p. 318.)

<sup>2</sup> See No. 540, *infra*.

plaint for a divorce or decree of nullity of marriage under oath in the district court of the county where he or she may reside, and like proceedings shall be had thereon as in civil cases.

\* \* \* \* \*

§ 4. **Disposition of Property—Care, etc., of Children.**—SEC. 8. In granting a divorce, the court shall also make such disposition of the property of the parties as shall appear just and equitable, having regard to the respective merits of the parties and to the condition in which they will be left by such divorce and to the party through whom the property was acquired, and to the burdens imposed upon it for the benefit of the children, and shall make provision for the guardianship, custody and support and education of the minor children of such marriage.

§ 5. **Decree: Force and Effect of—Change of Name.**—SEC. 9. Whenever an order of divorce from the bonds of matrimony is granted in this Territory by a court of competent authority, such order shall fully and completely dissolve the marriage as to both parties. And in all suits for a divorce, if a divorce be granted, the court may for just and reasonable cause change the name of such female, who shall thereafter be known and called by such name as the court shall in its order or decree appoint.

\* \* \* \* \*

§ 6. **In Case of Absence for Five Years, No Notice Necessary: Exception.**—SEC. 11. That in all applications to the district courts of this Territory for a divorce, where the complaint alleges the continued absence of the defendant for a period of five years or more, the court shall hear the cause without requiring notice to be given to the absent party by publication or otherwise, and if upon the hearing of the cause it shall be proven to the satisfaction of the court that the continued absence set forth in the complaint amounts to willful abandonment of the complainant the court shall thereupon grant an order of divorce as in other cases: *Provided*, That none of the provisions of this act<sup>1</sup> shall apply to cases where both parties are known to be residents of this Territory, or where the complainant shall not have resided two years in the Territory.

§ 7. **Appeal: Jurisdiction of Supreme Court.**—SEC. 12. In all instances where a district court shall grant a divorce, it shall be for causes<sup>2</sup> distinctly stated in the complaint and proved and found by the court, and the court shall state the facts found upon which the decree is rendered, and when either party shall signify a desire to appeal from any of the orders of the court in the disposition of the property or of the children, the court shall certify the evidence adduced on the trial, and the supreme court shall be possessed of the whole case as fully as the district court was, and may reverse, modify or affirm said judgment according to the real merits of the case. *Provided*, The supreme court shall not reverse any final order divorcing any parties divorced by the district court having jurisdiction of the cause.

\* \* \* See No. 560, *infra*.

#### NO. 558.—AN ACT RELATING TO DIVORCE.<sup>1</sup>

§ 1. **By Legislative Act—Notice.**—SECTION 1. *Be it enacted, etc.*, That no person shall be divorced by the legislative assembly of Washington Territory who shall not have given notice in some newspaper in this Territory for at least three months prior to the meeting of the legislative assembly of his or her purpose to make application for divorce.

§ 2. **Date in Effect.**—SEC. 2. This act to be in force from and after the first day of February, A. D. 1861.

<sup>1</sup> Passed Jan. 14, 1861. (See Eighth Reg. Sess. 1860-61, p. 20.)



**No. 559.—AN ACT TO AMEND AN ACT TO REGULATE SUITS FOR DIVORCE AND ALIMONY.<sup>1</sup>**

**§ 1. Provisions Relative to Absence Apply to "Section" Instead of "Act."**—*The Legislative Assembly of the Territory of Washington do enact as follows:* The proviso of section eleven<sup>2</sup> of An act to regulate suits for divorce and alimony, is hereby explained and amended to read: "*Provided, That none of the provisions of this section shall apply to cases where both parties are known to be residents of this Territory, or where the complainant shall not have resided two years in the Territory.*"

<sup>1</sup> Passed Jan. 21, 1861. (See Eighth Reg. Sess. 1860-61, p. 26.)

<sup>2</sup> See No. 557 and 556, *supra*.

**No. 560.—AN ACT TO REGULATE SUITS FOR DIVORCE AND ALIMONY.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 413, secs. 1, 2, 3, 8, 9, 11, 12.) This No. is verbatim as No. 557, *supra*, except § 1 of said No. at <sup>2</sup> instead of "or where the court" read "and the court," and § 6 at <sup>3</sup> instead of "act" read "section," and at <sup>4</sup> instead of "the Territory" read "this Territory," and § 7 at <sup>5</sup> instead of "causes" read "cause." All conflicting acts and parts of acts repealed.

**No. 561.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE SUITS FOR DIVORCE AND ALIMONY," PASSED JANUARY 19, 1863.<sup>1</sup>**

**§ 1. Residence for Three Months Required.—Publication of Notice.**—SECTION 1. *Be it enacted, etc.,* That section 3<sup>2</sup> of the act of which this act is amendatory be so amended as to read as follows, to wit: "Any person who has been a resident of the Territory for three months preceding the time of filing complaint may file his or her complaint for a divorce or decree of nullity of marriage, under oath, in the district court of district where he or she may reside, and like proceedings shall be had thereon as in other civil cases, and notice by publication four successive weeks in a newspaper published in the Territory, in cases of abandonment and desertion, shall be deemed sufficient notice."

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1864. (See Eleventh Reg. Sess. 1863-64, p. 13.) In effect from date.

<sup>2</sup> See Nos. 560 and 557, § 3, *supra*.

**No. 562.—AN ACT CONCERNING SUITS FOR DIVORCE AND ALIMONY, AND TO REPEAL AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED 'AN ACT TO REGULATE SUITS FOR DIVORCE AND ALIMONY,' " PASSED JANUARY 27, 1864.<sup>1</sup>**

**§ 1. Residence for One Year Required.**—SECTION 1. *Be it enacted, etc.,* That any person who has been a resident of the Territory for one year may file his or her complaint for a divorce and decree of nullity of marriage, under oath, in the district court of the district where he or she may reside, and like proceedings shall be had thereon as in other civil cases.

**§ 2. Repealing Clause.**—SEC. 2. An act entitled "An act to amend an act entitled 'An act to regulate suits for divorce and alimony,'" passed January 27, 1864,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 18, 1865. (See Thirteenth Reg. Sess. 1863-65, p. 89.) In effect from date.

<sup>2</sup> See No. 561, *supra*.

**No. 563.**—AN ACT SUPPLEMENTAL TO AN ACT ENTITLED "AN ACT TO REPEAL AN ACT ENTITLED 'AN ACT TO REGULATE SUITS OF DIVORCE AND ALIMONY'" PASSED JANUARY 27, 1864,<sup>1</sup> AND TO REVIVE AND RENEW AN ACT PASSED JANUARY 18,<sup>2</sup> 1863.\*

§ 1. **Pending Cases Not Affected.**—SECTION 1. *Be it enacted, etc.,* That the act to which this is supplemental, passed at the present session, shall not be so construed as to apply to any cases now pending in any of the courts in this Territory.

\* \* \* \* \*

<sup>1</sup> See No. 561, *supra*. The title here given is not exact. (See No. 560, *supra*.)

<sup>2</sup> Should be "January 19."

\* Approved Jan. 22 1864. (See Thirteenth Reg. Sess. 1865-66, p. 90.) In effect from date.

**No. 564.**—CHAPTER CXLIX—SUITS FOR DIVORCE AND ALIMONY.<sup>1</sup>

§ 1. **Causes for.**—SEC. 2000. Divorces may be granted by the district court, on application of the party injured, for the following causes: (1) When the consent to the marriage of the party applying for the divorce was obtained by force or fraud, and there has been no subsequent voluntary cohabitation. (2) For adultery on the part of the wife, or of the husband, when unforgiven, and application is made within one year after it shall come to his or her knowledge. (3) Impotency. (4) Abandonment for one year. (5) Cruel treatment of either party by the other, or personal iniquities rendering life burdensome. (6) Habitual drunkenness of either party, or the neglect or refusal of the husband to make suitable provisions for his family. (7) The imprisonment of either party in the penitentiary if complaint is filed during the term of such imprisonment. Any divorce may be granted upon application of either party for any other cause deemed by the court sufficient, and the court shall be satisfied that the parties can no longer live together.

§ 2. **Either Party May Apply.**—SEC. 2001. When there is any doubt as to the facts rendering a marriage void, either party may apply for, and on proof obtained, a decree of nullity of marriage.

§ 3. **Residence for One Year Required.**—SEC. 2002. Any person who has been a resident of the Territory for one year may file his or her complaint for a divorce or decree of nullity of marriage, under oath, in the district court of the county where he or she may reside, and like proceedings shall be had thereon as in civil cases.

\* \* \* \* \*

§ 4. **Disposition of Property—Care, etc., of Children.**—SEC. 2007. In granting a divorce the court shall also make such disposition of the property of the parties as shall appear just and equitable, having regard to the respective merits of the parties and to the condition in which they will be left by such divorce, and to the party through whom the benefit [property] was acquired, and to the burdens imposed upon it for the benefit of the children, and shall make provision for the guardianship, custody and support and education of the minor children of such marriage.

§ 5. **Decree: Force and Effect of.**—SEC. 2008. Whenever judgment of divorce from the bonds of matrimony is granted by the court in this Territory, the court shall order a full and complete dissolution of the marriage as to both parties: *Provided*, That neither party shall be capable of contracting marriage with a third person until the period in which an appeal may be taken, under the provisions of the civil practice act, has

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 340.) For repeating clause, date in effect, etc., see Nos. 328, 339, 340.



expired, and in case an appeal is taken, then neither party shall intermarry with a third person until the cause has been fully determined.

§ 6. **Change of Name.**—SEC. 2009. In all suits for a divorce, if a divorce be granted, the court may, for just and reasonable cause, change the name of such female, who shall thereafter be known and called by such name as the court shall in its order or decree appoint.

\* \* \* \* \*

§ 7. **Appeal: Jurisdiction of Supreme Court.**—SEC. 2011. In all instances where a district court shall grant a divorce it shall be for cause distinctly stated in the complaint, and proved and found by the court, and the court shall state the facts found upon which the decree is rendered; and when either party shall signify a desire to appeal from any of the orders of the court, in the disposition of the property or of the children, the court shall certify the evidence adduced on the trial, and the supreme court shall be possessed of the whole case as fully as the district court was, and may reverse, modify or affirm said judgment according to the real merits of the case

\* \* \* \* \*

**No. 565.—AN ACT TO AMEND SECTION 2000 OF THE CODE OF WASHINGTON TERRITORY RELATING TO DIVORCES.<sup>1</sup>**

§ 1. **Cause for.**—*Be it enacted, etc.* SECTION 1. That section 2000<sup>2</sup> of the Code of Washington Territory be and the same is amended by adding to and at the end of said section the following, to wit: And in case of incurable, chronic mania or dementia of either party, having existed for ten years or more, the court may in its discretion grant a divorce.

<sup>1</sup> Approved Dec. 22, 1883. (See Tenth Bienn. Sess. 1883-86, p. 126.) In effect from date.

<sup>2</sup> See No. 564, § 1, *supra*.

## TITLE XII.—EDUCATIONAL.†

### CHAPTER I.—AGRICULTURAL COLLEGE.

**No. 566.—AN ACT TO PROVIDE FOR THE LOCATION OF AN AGRICULTURAL COLLEGE OF WASHINGTON TERRITORY, UNDER THE PROVISIONS OF AN ACT OF CONGRESS DONATING LANDS TO THE SEVERAL STATES AND TERRITORIES WHICH MAY PROVIDE COLLEGES FOR THE BENEFIT OF AGRICULTURE AND THE MECHANIC ARTS.<sup>1</sup>**

§ 1. **Establishment of.**—SECTION 1. *Be it enacted, etc.,* That there shall be established in this Territory one college for the teaching of such branches as are related to agriculture and the mechanic arts.

§ 2. **Location.**—SEC. 2. That said college is hereby located in Clarke county.

<sup>1</sup> Passed Dec. 23, 1864. Transmitted to the governor Jan. 7, 1865, and not returned within five days. (See Twelfth Reg. Sess. 1864-65, p. 30.)

† Under this head, for the sake of convenience, appear laws relative to the subject of this title, of a special nature, contrary to the general plan of this book. (See also Title XX of this subject—"Revenue.")

§ 3. **Commissioners to Select Site.**—SEC 3. That John Aird, Levi Farnsworth and William H. Dillon are hereby appointed commissioners to select a site for said college

§ 4. **Powers of Commissioners.**—SEC 4 Said commissioners are hereby authorized to contract for the purchase of a tract of land within Clarke county for the location of said college, of not less than forty acres or more than one hundred and sixty acres, for a sum of money not exceeding the sum of two thousand dollars, said land site to be paid for out of funds to be realized under section five of act of congress donating lands to this Territory for an agricultural college.

\* \* \* \* \*

**No. 567.—AN ACT TO ACCEPT THE PROPOSITION OF THE CONGRESS OF THE UNITED STATES GRANTING LANDS TO THE TERRITORY OF WASHINGTON FOR AGRICULTURAL COLLEGES<sup>1</sup>**

§ 1. **Preamble Act of Congress.**—WHEREAS, The congress of the United States did pass an act entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," which act is in effect as follows:

SECTION 1 *Be it enacted, etc.*, That there be granted to the several states, for the purposes hereinafter mentioned, an amount of public land to be apportioned to each state in quantity equal to 30,000 acres for each senator and representative in congress to which the states are respectively entitled by the apportionment under the census of 1800: *Provided*, That no mineral lands shall be selected or purchased under the provisions of this act

SEC 2 *And be it further enacted*, That the land aforesaid, after being surveyed, shall be apportioned to the several states in sections or subdivisions of section not less than one quarter of a section; and whenever there are public lands in a state subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said state shall be entitled shall be selected from such lands within the limits of such state, and the secretary of the interior is hereby directed to issue to each of the states in which there is not the quantity of public lands subject to sale at private entry at one dollar and twenty-five cents per acre to which said state may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share: said scrip to be sold by said state and the proceeds thereof applied to the uses and purposes prescribed in this act and for no other use or purpose whatsoever: *Provided*, That in no case shall any state to which land scrip may thus be issued be allowed to locate the same within the limits of any other state or of any territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry at one dollar and twenty-five cents per acre: *And provided further* That not more than one million acres shall be located by such assignees in any one of the states. *And provided further*, That no such locations shall be made before one year from the passage of this act

SEC 3 *And be it further enacted*, That all the expenses of management and superintendence, and taxes from date of selection of said lands previous to their sale, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the states to which they may belong out of the treasury of said states, so that the entire proceeds of the sale of said lands shall be ap-

<sup>1</sup> Passed Jan 28, 1864. (See Eleventh Reg Sess 1863-64, p 603)

plied, without any diminution whatever, to the purposes hereinafter mentioned.

SEC. 4. *And be it further enacted*, That all moneys derived from the sale of lands aforesaid by the states to which the lands are apportioned, and from the sales of land scrip hereinbefore provided for, shall be invested in stocks of the United States, or of the states, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and that the money so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section fifth of this act), and the interest of which shall be inviolably appropriated by each state which may take and claim the benefit of this act, to the endowment, support and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislature of the states may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

SEC. 5. *And be it further enacted*, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as the provisions hereinbefore contained, the previous assent of the several states shall be signified by legislative acts: \* \* \* (3) Any state which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to such state shall cease; and said state shall be bound to pay the United States the amount received for lands previously sold, and that the title to purchase under the state shall be valid. \* \* \* (5) When lands shall be selected from those which have been raised to double the minimum price in consequence of railroad grants, they shall be computed to the states at the maximum price, and the number of acres proportionally diminished. (6) No state, while in a condition of rebellion or insurrection against the government of the United States, shall be entitled to the benefit of this act. (7) No state shall be entitled to the benefits of this act unless it shall express its acceptance thereof by its legislature within two years from the date of its approval by the president.

SEC. 6. *And be it further enacted*, That land scrip issued under the provisions of this act shall not be subject to location until after the first day of January, 1868.

\* \* \* \* \*

§ 2. **Propositions Adopted.**—SECTION 1. *Be it enacted, etc.*, That each and all of the propositions in said act of congress offered to the Territory of Washington are hereby irrevocably adopted, with all the conditions and obligations therein contained.

§ 3. **Date in Effect.**—SEC. 2. And whereas, it is expedient to make provision for locating said lands as soon as possible, this act shall take effect and be in force from and after its passage.

**No. 568.—AN ACT FOR THE ESTABLISHMENT AND GOVERNMENT OF AN AGRICULTURAL COLLEGE PROVIDED FOR BY ACT OF CONGRESS APPROVED JULY 2, 1862<sup>1</sup>**

§ 1. **Establishment of.**—SECTION 1. *Be it enacted, etc.*, That there shall be established in this Territory a college for the benefit of agriculture and the mechanic arts, under the provisions of an act of congress

<sup>1</sup> Passed Jan 2, 1865. Transmitted to the governor Jan. 7, 1865, and not returned within five days. (See Twelfth Reg. Sess. 1864-65, p. 32.)



approved July 2 1862, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," which college shall bear the name and style of "Washington College," and be located at or near the city of Vancouver, in the county of Clarke, Washington Territory.

\* \* \* \* \*

§ 2. **Trustees.**—SEC. 3. The government of said college shall be vested in a board of seven trustees, \* \* \*

§ 3. **Powers of Board.**—SEC. 4. The board of trustees and their successors in office shall constitute a body corporate, with the name and style of the "Board of trustees of Washington College," with the right as such of suing and being sued, of contracting and being contracted with, of making and using a common seal and altering the same at pleasure.

\* \* \* \* \*

§ 4. **Commissioners: Selection of Lands.**—SEC. 8. The first meeting of said board of trustees shall be held on the third Monday of February, A. D. 1865, at Vancouver, at which time, or as soon thereafter as convenient there shall be elected by the said board of trustees a commissioner of college lands who shall be a citizen of this Territory, whose duty it shall be after having taken and subscribed before some competent officer an oath faithfully to discharge the duties of his office, to locate and select from any surveyed public lands in this Territory subject to sale at private entry at one dollar and twenty-five cents an acre, the amount of thirty thousand acres, such location and selection to be made and completed by the first day of September, A. D. 1865; and the commissioner is hereby required to make immediately thereafter a full report of his acts and doings under this section to the said board of trustees.

§ 5. **Trustees Shall Make Entry of Lands Selected.**—SEC. 9. Upon the adoption of the report of said commissioner by the said board of trustees, it shall be the duty of the said board forthwith to secure the lands so selected for the benefit of the said agricultural college by entering and notifying upon the same in the proper land office of the United States, and to take all proper steps to effectuate the object herein intended in the manner provided by law of congress and in conformity with the rules and regulations prescribed by the land department of the United States.

\* \* \* \* \*

§ 6. **Sale of Lands: Manner, Terms, Price, etc.**—SEC. 11. Whenever at any time the said board of trustees have completed the entering and locating of said lands as required in section ninth of this act, and the title thereto vests in the said college hereby created, the said board may order the sale of such lands at public or private sale, after having appraised the separate value of each section or legal subdivision thereof, and after having given public notice thereof in one or more newspapers published in this Territory, for at least four weeks prior to the time of commencement of such sale, which notice shall specify the time, place, manner and terms of such sale. None of the said lands shall be sold for less than one dollar and twenty-five cents per acre, nor less than its appraised value; and no member of said board shall be either directly or indirectly interested in any purchase of such lands upon sale, and the board of trustees shall invest the proceeds of such sale in stocks of the United States or some other safe stocks yielding not less than five per centum per annum upon the par value of said stocks, and that the money so invested shall constitute a perpetual fund, the principal of which shall remain forever undiminished except that ten per centum upon the amount received upon such sales may be expended by the board of trustees for the purchase of any suitable site selected and contracted for by any commissioner appointed by law for that purpose.

§ 7. **Deed: How Executed, etc.**—SEC. 12. The board of trustees, upon payment of the purchase price, shall execute and deliver to the

purchasers of land sold under the provisions of this act, a deed, signed and sealed by the president and secretary and acknowledged by the president before some officer authorized to take acknowledgments.

\* \* \* \* \*

## CHAPTER II.—COMMON SCHOOL LANDS.

### No. 569.—AN ACT RELATIVE TO THE SALE OF SCHOOL LANDS.<sup>1</sup>

§ 1. **Commissioners May Sell.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of any county, when they think the interest of common schools demand, may, in accordance with the provisions hereinafter described, proceed to sell the lands within their limits, donated by congress to the Territory for the use of common schools, viz., sections (16) sixteen and (36) thirty-six, or, where any part of these have been taken by settlers and is claimed under the donation or preëmption laws, that which has or may be selected in lieu thereof.

§ 2. **Notice of.**—SEC. 2. The commissioners shall give at least (30) thirty days' notice of such sale in some newspaper, if any is published in the county where such sale is to be made, or if no paper is published in the county, they shall cause at least one notice to be posted up at the usual place of voting in each precinct in the county, stating the time and place of such sale, and also the terms of sale.

§ 3. **To Whom May Sell, Price, etc.**—SEC. 3. The land shall be sold to the highest bidder, in legal subdivisions of not more than 160 acres in a lot, the minimum price being \$200 (\$1.25 per acre).<sup>2</sup>

§ 4. **Deed.**—SEC. 4. The commissioners shall execute a good and lawful deed to the purchaser when the sum total is paid, and the money so paid shall be let at the lawful rate of interest, which interest shall be added to the principal annually, or paid into the treasury for the use of schools in the township where such land is situated, but the principal shall not be diminished, it shall be a perpetual fund for school purposes only.

§ 5. **Timber May be Sold.**—SEC. 5. When, in the opinion of the commissioners, the land is so situated that it is not liable to be diminished in value by the removal of timber, or by cultivation, or by use in any way, but rather on the other hand its value would in any way be increased, they shall not require the purchaser to pay, at the time of sale, more than the lawful interest on the amount bid for one year from the time of such sale, together with the cost necessarily arising from such sale: *Provided,* He gives a good and proper mortgage by which the land be forfeited by failure to pay at the end of each year the interest of another year in advance.

\* \* \* \* \*

§ 6. **Certain Counties Excluded.**—SEC. 6. \* \* \* *Provided,* That no part of this act shall be so construed as to apply to the counties of Whatcom, Clickitat, Skamania, Pierce, Chehalis, Clarke and Walla Walla.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1861. (See Eighth Reg. Sess. 1860-61, p. 31.) In effect from date.

<sup>2</sup> See No. 572, *infra*.



**No. 570.—AN ACT TO AMEND AN ACT ENTITLED AN ACT RELATIVE TO THE SALE OF SCHOOL LANDS.<sup>1</sup>**

§ 1. "Walla Walla" Included.—SECTION 1. *Be it enacted, etc.*, That section 8<sup>1</sup> of the act to which this is an amendment be amended by striking out the word "Walla Walla," where it occurs in said act.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 12, 1863. (See Tenth Reg. Sess. 1862-63, p. 475.) In effect from date.

<sup>2</sup> See No. 569, § 6, *supra*.

**No. 571.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATIVE TO THE SALE OF SCHOOL LANDS," PASSED JANUARY 24, 1861.<sup>1</sup>**

§ 1. "Clarke" Included.—SECTION 1. *Be it enacted, etc.*, That section 8<sup>2</sup> of an act entitled "An act relative to the sale of school lands," passed January 24th, 1861, be amended by striking out the word "Clarke" where it occurs after the word "Chehalis," and before the word "and," in the last line of said section

\* \* \* \* \*

<sup>1</sup> Passed Jan. 15, 1863. (See Tenth Reg. Sess. 1862-63, p. 475.) In effect from date.

<sup>2</sup> See No. 569, § 6, *supra*.

**No. 572.—AN ACT RELATIVE TO THE SALE OF SCHOOL LANDS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 473.) This No. is *verbatim* as No. 569 *supra*, except § 3 of said No. at \* instead of "minimum price being \$200 (\$1.25 per acre)" read "minimum price being \$1.25 per acre," and § 6 at \* the words "Clarke and Walla Walla" are omitted. All conflicting acts and parts of acts repealed. In effect from date.

**No. 573.—AN ACT TO AUTHORIZE COUNTY COMMISSIONERS IN CERTAIN CASES TO SELL AND CONVEY SCHOOL LANDS AT PRIVATE SALE.<sup>1</sup>**

§ 1. **Settlers May Purchase at Private Sale, After Survey.**—SECTION 1. *Be it enacted, etc.*, That the county commissioners of any county may sell at private sale such portions of the sixteenth and thirty-sixth sections as shall at the time of the passage of this act be in the possession of any person who may have made a settlement on the same prior to the time of its public survey, under the provisions either of the donation or preemption act, or to any other person holding the same by purchase, descent or gift from the original settler.

§ 2. **Application to Purchase: Filing and Notice.**—SEC. 2. Any persons residing upon or holding such possessory interest in either the sixteenth or thirty-sixth sections shall file their application for purchase before the board of county commissioners of the county wherein such lands lie at any regular term of said board, such application being accompanied with a certificate from the register of the proper land office, showing the reasons of the failure to secure the title under the provisions of the acts of congress; first giving public notice of the intention of such application at least three months beforehand, by posting up written or printed advertisements in three of the most public places in the county, one of which shall be in the township in which the land so held is situated.

§ 3. **Proof of Notice and Settlement.**—SEC. 3. Upon proof of such notice having been duly given the commissioners shall proceed to hear the application, and shall require proof of the nature of the claim, the date

<sup>1</sup> Passed Jan. 23, 1863. (See Tenth Reg. Sess. 1862-63, p. 476.) In effect from date.

of original settlement, the amount of improvements, and of such other matters as they in the exercise of their judgment may deem necessary.

**§ 4. Commissioners May Deed.**—SEC. 4. Whenever the board of commissioners, or a majority of them, are of the opinion that the proof thus submitted is satisfactory, and that all the transactions pertaining to the same were *bona fide*, they shall order the same to be sold to the proper holder thereof at the rate of \$1.50 per acre, upon the payment of which they shall execute a deed to the purchaser, conveying all the right, title and interest of the Territory in and to the same: *Provided*, That all necessary expenses incurred in the prosecution of the application shall be met by the applicant.

**No. 574.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATIVE TO THE SALE OF SCHOOL LANDS," PASSED JAN. 19, 1863.<sup>1</sup>**

**§ 1. Whatcom Included.**—SECTION 1. *Be it enacted, etc.*, That section 8<sup>2</sup> of the act to which this is an amendment be amended by striking out the word "Whatcom" where it occurs in said act.

<sup>1</sup> Passed Jan. 29, 1864. (See Eleventh Bien. Sess. 1863-64, p. 25.) In effect from date.

<sup>2</sup> See Nos. 572 and 569, § 6, *supra*.

**No. 575.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT IN RELATION TO THE SALE OF SCHOOL LANDS," PASSED JANUARY 15, 1863, AND AN AMENDATORY ACT THERETO PASSED JANUARY 25, 1864.<sup>1</sup>**

SECTION 1. *Be it enacted, etc.*, That the act passed January 15, 1863,<sup>2</sup> and the amendatory act thereto passed January 25, 1864,<sup>3</sup> in relation to the sale of school lands in this Territory, be and the same are hereby repealed.

<sup>1</sup> Approved Jan. 26, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 136.) In effect from date.

<sup>2</sup> See No. 572, *supra*.

<sup>3</sup> There is no act of the date here given relative to school lands. The act doubtless referred to may be found as No. 574, *supra*, although it is dated Jan. 29.

**No. 576.—AN ACT TO PROVIDE FOR THE LEASING OF SCHOOL LAND OF WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. Preamble.**—WHEREAS, The government of the United States has reserved certain lands for school and educational purposes, to wit, the sixteenth and thirty-sixth sections in each township; and

WHEREAS, A large portion of said lands are well adapted to agriculture and pastoral purposes; and

WHEREAS, Said lands are yielding no revenue or income; therefore,

**§ 2. Commissioners Empowered to—Time, Term, etc.**—SECTION 1. *Be it enacted, etc.*, That the county commissioners of the several counties are hereby authorized and empowered to lease or rent said lands, or any portion thereof, for a number of years not exceeding six, or until said lands shall be sold, at a rent or interest not less than ten dollars per annum for each quarter section or any fractional part thereof, which said rent shall be invariably paid in advance and applied to the school funds.

<sup>1</sup> Passed the House Nov. 19, 1869; passed the Council Nov. 24, 1869. Transmitted to the governor Nov. 25, 1869, and not returned within five days. (See Second Bien. Sess. 1869, p. 401.) All conflicting laws repealed. In effect "from and after its passage."

§ 3. **Cutting Timber not Authorized.**—SEC. 2. That nothing in the foregoing section shall be so construed as to authorize the cutting or otherwise destroying any of the timber on said lands.

§ 4. **Improvements a Part of Realty.**—SEC. 3. That all fencing and other improvements put upon said land shall attach to and become a part of the realty at the expiration of said lease.

\* \* \* \* \*

## CHAPTER III.—SCHOOL FOR DEFECTIVE YOUTH.

**No. 577.—AN ACT TO PROVIDE FOR THE ERECTION OF A BUILDING OR BUILDINGS FOR THE WASHINGTON SCHOOL FOR DEFECTIVE YOUTH NEAR VANCOUVER, IN CLARKE COUNTY, AND TO APPROPRIATE MONEY THEREFOR.**<sup>1</sup>

§ 1. **Commissioners to be Appointed.**—*Be it enacted, etc.* SECTION 1. That it shall be the duty of the governor, within fifteen days after the approval of this act, to appoint, by and with the consent of the council, three competent persons, residents of this Territory, not more than two of whom shall belong to the same political party, who shall constitute a board of commissioners for the construction of a suitable building or buildings at Vancouver, in Clarke county, for the Washington school for defective youth, under the provisions of this act, \* \* \*

§ 2. **Description of Property—Shall Receive in Trust.**—SEC. 2. Said commissioners shall receive a deed of conveyance in fee simple, clear of all incumbrances, in trust for the people of Washington Territory, for 17 $\frac{1}{100}$  acres of land in the vicinity of the city of Vancouver, more particularly described as follows, to wit: Beginning at a point 2 $\frac{35}{100}$  chains east and 10 $\frac{22}{100}$  chains south of the  $\frac{1}{4}$  sec. cor. between secs. 25 and 26 of Tp 2 W. R 1 E. of W. M., and running thence E. 10 $\frac{32}{100}$  chs., thence S. 16 $\frac{28}{100}$  chs. to the Vancouver and Fishers' Landing road, thence along said road N 73 deg. W. 9 $\frac{22}{100}$  chs., thence N. 14 $\frac{44}{100}$  chs., to the place of beginning; and upon which land the said building or buildings for the school for defective youth shall be erected. \* \* \*

<sup>1</sup>Approved Jan. 26, 1886. (See Eleventh Bien. Sess. 1887-88, p. 82). All conflicting acts and parts of acts repealed. In effect from date.

## CHAPTER IV.—TERRITORIAL UNIVERSITY.

**No. 578.—AN ACT TO LOCATE THE TERRITORIAL UNIVERSITY.**<sup>1</sup>

§ 1. **Located at Seattle—Branch, at Boisfort Plains.**—SECTION 1. *Be it enacted, etc.* That the university shall be and hereby is located and established at Seattle, in the county of King, and there is hereby located and established a branch of said university on Boisfort Plains, in Lewis county, to be placed on the same footing with respect to funds and all other matters as the university located at Seattle, in King county.

<sup>1</sup>Passed Jan. 29, 1856. (See Second Reg. Sess. 1854-55, p. 8.)



**§ 2. Division of Lands.**—SEC. 2. The two townships of land granted by act of congress of July seventeenth, 1854, for the support of universities, be and the same is hereby equally divided between the university located at Seattle, in King county, and the branch of said university located at Boisfort Plains, in Lewis county.

**§ 3. Each, Receives One Township.**—SEC. 3. One township of the foregoing grant of land for university purposes is hereby set apart for the support and endowment of the university located at Seattle, in King county, and the other township is hereby set apart for the support and endowment of the branch of said university located at Boisfort Plains, in Lewis county.

**No. 579.—AN ACT TO PROVIDE FOR THE SELECTION AND LOCATION OF TWO TOWNSHIPS OF LAND TO AID IN THE ESTABLISHMENT OF A UNIVERSITY.<sup>1</sup>**

**§ 1. Commissioners to Select.**—SECTION 1. *Be it enacted, etc.*, That the county superintendents of common schools throughout the Territory be and the same are hereby constituted a board of commissioners to select and locate two townships of land for university purposes in accordance with the provisions of the act of congress donating the said number of townships to Washington Territory for university purposes: *Provided*, That the counties of Cowlitz, Lewis and Whatcom be excepted from the operations of this section, and that Nathaniel Ostrander be the commissioner for Cowlitz, Thompson Newlin for Lewis county, and R. V. Peabody for Whatcom.

**§ 2. Limitation of Selections—Notice to Land Office.**—SEC. 2. And said commissioners may proceed, as soon as in their opinion good selections can be made, to select and locate said lands: *Provided*, That no commissioner shall select more than two sections before the next annual session of the legislature, and they shall inform the proper officer or officers of the land office of the precise tract or tracts so selected or located.

**§ 3. Report of Commissioners.**—SEC. 3. Said commissioners shall report and present a schedule of the sections or tracts selected by them and approved by the proper officer or officers in the land office, to the legislative assembly at any session thereof.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 31, 1855. (See Second Reg. Sess. 1851-55, p. 8.) In effect from date.

**No. 580.—AN ACT TO RE-LOCATE THE TERRITORIAL UNIVERSITY.<sup>1</sup>**

**§ 1. Cowlitz Farm Prairie Selected.**—SECTION 1. *Be it enacted, etc.*, That the Territorial university be and the same is hereby located on the Cowlitz Farm Prairie, in the county of Lewis: *Provided*, A good and sufficient deed to 160 acres of land on an eligible part of said prairie be first executed to the Territory of Washington.

**§ 2. Lands Reserved For.**—SEC. 2. The proceeds of the two townships of land granted by an act of congress, approved July 17, 1854, for university purposes, shall be applied for the support and endowment of said university.

**§ 3. Repealing Clause.**—SEC. 3. The act passed January 29, 1855, entitled "An act to locate the Territorial University,"<sup>2</sup> is hereby repealed.

<sup>1</sup> Passed Jan. 30, 1858. (See Fifth Reg. Sess. 1857-58, p. 40.)

<sup>2</sup> See No. 578, *supra*.

**No. 581.—AN ACT TO PROVIDE FOR THE SELECTION AND LOCATION OF THE LANDS RESERVED FOR UNIVERSITY PURPOSES, AND TO APPOINT A BOARD OF COMMISSIONERS.<sup>1</sup>**

§ 1. **Commissioners Appointed.**—SECTION 1. *Be it enacted, etc.,* That A. B. Dillinbaugh, John Clinger and — Newland be and they are hereby constituted a board of commissioners to select and locate the lands donated by congress to the Territory of Washington for university purposes

§ 2. **Manner of Selection.**—SEC. 2. \* \* \* And the board are hereby directed to proceed, forthwith, to make selection of said lands in detached portions, in different parts of the Territory, and in no case to exceed 320 acres in one body, distributing the same proportionally to the surveys already made, having reference, however, both to the locality and quality of the lands thus selected, and in no case to select more than the one-third of the lands authorized to be selected by act of congress before the next annual meeting of the legislature

§ 3. **Notice to Land Office.**—SEC. 3. It shall be the duty of the president of the board to inform the proper officer or officers of the land office, from time to time, of the precise tract or tracts thus selected and located, and have the same properly entered in the name of the Territory of Washington, for university purposes

\* \* \* \* \*

§ 4. **Repealing Clause.**—SEC. 8. The act entitled "An act to provide for the selection and location of two townships of land to aid in the establishment of a university," passed January 31, 1855,<sup>2</sup> be and the same is hereby repealed

<sup>1</sup> Passed Jan. 20, 1850. (See Seventh Reg. Sess. 1859-60, p. 293.)

<sup>2</sup> See No. 579 *supra*.

**No. 582.—AN ACT TO PROVIDE FOR THE SELECTION AND LOCATION OF THE LAND RESERVED FOR UNIVERSITY PURPOSES; TO APPOINT A BOARD OF COMMISSIONERS, AND TO PROVIDE FOR THE SELECTION AND LOCATION OF A SITE FOR THE TERRITORIAL UNIVERSITY.<sup>1</sup>**

§ 1. **Commissioners to Re-locate at Seattle.**—SECTION 1. *Be it enacted, etc.,* That Daniel Bagley, John Webster and Edmund Carr be and they are hereby constituted and appointed a board of commissioners to select, locate and receive a title for ten acres of land within the vicinity of Seattle, that may be donated to the Territory of Washington for a site for the Territorial university, and to select and locate the lands donated by congress to the Territory of Washington for university purposes.

\* \* \* \* \*

§ 2. **To Receive Deed to Tract Donated.**—SEC. 8. The board are hereby authorized and directed to proceed forthwith to make selection of such ten-acre lot of land within the vicinity of Seattle as may be donated to the Territory for university purposes, and to receive a title therefor, and the same to have recorded in the public records of King county, and forward the original to the secretary of the Territory, who shall file the same in his office, and forward a copy to the attorney general of the United States for his approval

§ 3. **To Select Land Reserved**—SEC. 4. The board are hereby authorized to proceed forthwith to make selection of the lands reserved by con-

<sup>1</sup> Passed Jan. 11, 1861. (See Eighth Reg. Sess. 1860-61 p. 16.)



gress for university purposes, but in no case to select more than six hundred and forty (640) acres in one body.

\* \* \* \* \*

§ 4. **Sale of Lands: Price.**—SEC. 6. Said commissioners shall have authority, at any time after lands have been properly entered in the land office in accordance with section three of the act to which this is amendatory, to sell any and all lands thus located for any sum not less than one dollar and fifty cents per acre, according to the quality of the land.

§ 5. **Notice to Land Office.**—SEC. 7. Upon the sale of any of the lands, the commissioners shall report forthwith the tract or tracts so sold to the proper land office in order that the purchaser may receive a proper and sufficient title for the same.

\* \* \* \* \*

§ 6. **Repealing Clause.**—SEC. 10. The first and second sections<sup>2</sup> of an act passed January 20th, 1860, entitled "An act to provide for the selection and location of the lands reserved for University purposes and to appoint a board of commissioners," and all acts or parts of acts in conflict with this act, are hereby repealed.

<sup>2</sup> See No. 581, §§ 1, 2, *supra*.

**No. 583.—AN ACT TO INCORPORATE THE UNIVERSITY OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. **Board of Regents.**—SECTION 1. *Be it enacted, etc.,* That Daniel Bagley, Paul K. Hubbs, J. P. Kelley, John Webster, E. Carr, Frank Clark, G. A. Meigs, Columbia Lancaster and C. H. Hale, their associates and successors in office, are hereby constituted a board of regents, a body corporate and politic, with perpetual succession, under the name of the University of the Territory of Washington, by which they may sue and be sued, plead and be impleaded, in all the courts of law and equity.

\* \* \* \* \*

§ 2. **Government.**—SEC. 3. The government of the university is vested in the board of regents.

\* \* \* \* \*

§ 3. **Seal—May Hold, etc., Real Property.**—SEC. 5. The board of regents shall have a corporate seal, and the same alter or break at pleasure; may hold all kinds of estate, real, personal or mixed, which they may acquire by purchase, donation, devise or otherwise, necessary to accomplish the object of the corporation.

§ 4. **Ordinances, By-Laws, etc.**—SEC. 6. The regents shall have power to enact ordinances, by-laws and regulations for the government of the university, to elect a president; \* \* \*

\* \* \* \* \*

§ 5. **Legislature May Amend This Act.**—SEC. 20. This act shall not be so construed as to prevent the legislature from making such amendments to the same as the welfare of the university may require

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1862. (See Ninth Reg. Sess. 1861-62, p. 43.) In effect from date.

**No. 584.—AN ACT TO INCORPORATE THE UNIVERSITY OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 23, 1863. (See Tenth Reg. Sess. 1862-63, p. 477, *secs.* 1, 3, 5, 6.) This No. is verbatim as No. 583, *supra*, except § 5 of said No. is omitted.

**No. 585.—AN ACT IN RELATION TO THE TERRITORIAL UNIVERSITY.<sup>1</sup>**

§ 1. **Repealing Clause—Report of Commissioners.**—SECTION 1. *Be it enacted, etc.,* That all acts or parts of acts heretofore passed giving or granting power and authority over the interests or funds of the Territorial university, including the selection, location and sale of university lands, to a board of commissioners, be and the same are hereby repealed, and the said board of commissioners are hereby required, forthwith, to turn over to the president of the board of regents herein appointed, all books, records, papers and property of every description in their or either of their possession belonging or in relation to said university, and to make a full and correct sworn exhibit of all their actions and doings from their or either of their appointment or election up to the time of their so turning over, including a full description of each and every tract of land which has been located, the time when located, and a full and complete statement of the time and manner of the disposal of each of said tracts, and whether the sale of any tract was made for coin or legal tender notes, and if any land has been located which has been abandoned the reasons why the same was abandoned, and a description of each tract thus abandoned.

§ 2. **New Board of Regents Appointed.**—SEC. 2. That all acts and parts of acts heretofore passed electing or appointing regents for said university be and the same are hereby repealed, and that B. F. Dennison, David T. Denny, Frank Mathias, Harvey K. Hines and Oliver F. Gerrish be and the same are hereby appointed a board of regents for said university.

§ 3. **Tenure of Office.**—SEC. 3. That hereafter said board of regents shall consist of five persons, to be appointed by the legislative assembly as follows: Two at the first biennial session, three at the next, two at the next, and so on until otherwise provided.

§ 4. **Powers of Board.**—SEC. 5. That all and singular the power and authority that has heretofore been vested in the board of commissioners, shall vest in and be exercised by the board of regents.

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 114.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 586.—AN ACT TO CONFIRM TITLE TO UNIVERSITY LANDS IN WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Certain Deeds Declared Valid.**—SECTION 1. *Be it enacted, etc.,* That all deeds of conveyance for university lands in this Territory, which have been executed since the passage of the act entitled "An act to provide for the selection and location of the land reserved for university purposes, to appoint a board of commissioners, and to provide for the selection and location of a site for the Territorial university," passed on the eleventh day of January, one thousand, eight hundred and sixty-one,<sup>2</sup> in the name of Daniel Bagley, president of the board of university commissioners, instead of being executed in the name of the Territory of Washington, shall be deemed, taken and held good and valid deeds in law, and shall have all the force and effect to pass from the Territory of Washington to the purchaser or purchasers named in such deeds, respectively, their heirs, executors, administrators and assigns, all the right, title and interest there vested, or which may thereafter be vested in the

<sup>1</sup> Approved Oct. 26, 1875. (See Fifth Blen. Sess. 1875, p. 103). In effect from date.

<sup>2</sup> See No. 582, *supra*.

Territory of Washington, in and to the lands described in said deeds, as though in each and all respects the deeds in their form and manner of execution had conformed to the requirements of law.

\* \* \* \* \*

## TITLE XIII.—FRAUDS, STATUTE OF.

### No. 587.—AN ACT TO PREVENT FRAUDULENT CONVEYANCES.<sup>1</sup>

§ 1. **Deeds of Gift, etc.**—SECTION 1. *Be it enacted, etc.*, That all deeds of gift, all conveyances and all transfers or assignments, verbal or written, of goods, chattels or things in action, made in trust for the use of the person making the same, shall be void as against the existing or subsequent creditors of such person.

§ 2. **Agreements, etc.**—SEC. 2. In the following cases specified in this section, any agreement, contract and promise shall be void, unless such agreement, contract or promise, or some note or memorandum thereof, be in writing and signed by the party to be charged therewith, or by some person thereunto by him lawfully authorized; that is to say: (1) Every agreement that by its terms is not to be performed in one year from the making thereof; \* \* \* (3) Every agreement, promise or undertaking made upon consideration of marriage, except mutual promises to marry. \* \* \*

\* \* \* \* \*

<sup>1</sup> Passed March 21, 1854. (See First Reg. Sess. 1854, p. 403.)

### No. 588.—AN ACT TO PREVENT FRAUDULENT CONVEYANCES.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Passed Jan. 19, 1860. (See Seventh Reg. Sess. 1859-60, p. 297.) This No. is *verbatim* as No. 587, *supra*.

### No. 589.—AN ACT TO PREVENT FRAUDULENT CONVEYANCES.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 412.) This No. is *verbatim* as No. 587, *supra*. All conflicting acts repealed.

### No. 590.—CHAPTER CLXXII—FRAUDULENT CONVEYANCES.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Approved Dec. 6, 1881. (See Code 1881, p. 400, secs. 2324, 2325.) This No. is *verbatim* as No. 587, *supra*.



## TITLE XIV.—GUARDIAN AND WARD.

### CHAPTER I.—MINORS.

#### No. 591.—AN ACT TOUCHING THE RELATION OF GUARDIAN AND WARD.<sup>1</sup>

§ 1. **Appointment of Guardian.**—SECTION 1. *Be it enacted, etc.,* That the probate court of each county shall appoint guardians of orphans under age resident in such county or having estate therein, and in case of conflict between two appointments in different counties the one first made shall exclude all others and extend to all the property of the ward within this Territory.

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§ 2. **Powers of Guardian.**—SEC. 6. Every guardian so appointed shall have the custody and tuition of such minor and the management of such minor's estate during minority, unless sooner removed or discharged from such trust. *Provided,* That the father of such minor, or if there be no father, the mother, if suitable person, respectively, shall have the custody of the person, and the control of the education of such minor.

§ 3. **Guardian Appointed by Will; Powers of.**—SEC. 7. When a guardian has been appointed by will by a father or mother of any child, such guardian shall be entitled to preference in appointments over all others without reference to his place of residence or the choice of such minor, but his appointment and duties and powers shall in all other respects be governed by the law regulating guardians not appointed by will.

§ 4. **Guardian ad Litem.**—SEC. 8. All courts shall have power to appoint a guardian *ad litem* to defend the interests of any minor impleaded in any suit, and to permit any persons as next friends to prosecute any suit in any minor's behalf.

§ 5. **Duties of Guardian.** SEC. 9. It shall be the duty of every guardian of any minor (1) To make out and file, within three months after his appointment, a full inventory, verified by oath, of the real and personal estate of his ward, with the value of the same; and failing so to do, it shall be the duty of the proper court to remove him and appoint a successor. (2) To manage the estate for the best interest of his ward. (3) To render, on oath, to the proper court, an account of his receipts and expenditures as such guardian, verified by such vouchers or proof at least once in every two years; and failing so to do he shall receive no allowance for services, and be liable to his said ward on his bond for ten per cent. in damages on the whole amount of estate, both real and personal, in his hands belonging to such ward. (4) At the expiration of his trust, fully to account for and pay over to the proper person all the estate of said ward remaining in his hands. \* \* \*

§ 6. **Investment of Estate.**—SEC. 10. The probate court may, on the application of a guardian or any other person, said guardian having notice thereof, order and decree any change to be made in the investment of the estate of any ward that may to such court seem advantageous to such estate.

§ 7. **Removal of Guardian.**—SEC. 11. The court by whom any guardian has been or may be appointed may at any time remove such guardian.

<sup>1</sup> Passed Jan. 26, 1855. (See Second Reg. Sess. 1854-55, p. 14.)

he having five days' notice thereof, for habitual drunkenness, neglect of his duties, incompetency, fraudulent conduct, removal from the county, or any other cause which, in the opinion of such court, renders it for the interest of such ward that such guardian should be removed.

§ 8. **Effect of Marriage of Female Ward.**—SEC. 12. The marriage of any female ward to a person of full age shall operate as a legal discharge of her guardianship; and her guardian shall account to the husband of such ward in the same manner as if she had arrived at full age.

§ 9. **When Real Estate of Ward May be Sold.**—SEC. 14. Whenever necessary for the education, support or payment of the just debts of any minor, or for the discharge of any liens on the real estate of such minor, or whenever the real estate of such minor is suffering unavoidable waste, or a better investment of the value thereof can be made, the probate judge may, on the application of such guardian, order the same or a part thereof to be sold.

§ 10. **Application for Sale: Substance of.**—SEC. 15. Such application shall set forth specifically: (1) The value and character of all personal estate belonging to such ward that has come to the knowledge or possession of such guardian. (2) The disposition made of such personal estate. (3) The amount and condition of the ward's personal estate, if any, dependent upon the settlement of any estate or the execution of any trust. (4) The annual value of the real estate of the ward. (5) The amount of rent received and the application thereof. (6) The proposed manner of reinvesting the proceeds of the sale, if asked for that purpose. (7) Each item of indebtedness or the amount and character of the lien, if the sale is prayed for the liquidation thereof. (8) The age of the ward, where and with whom residing. (9) All other facts connected with the estate and condition of the ward necessary to enable the court fully to understand the same. If there is no personal estate belonging to such ward in possession or expectancy, and none has come into the hands of such guardian, and no rents have been received, the fact shall be stated in the application.

§ 11. **Appraisal of Real Estate.**—SEC. 16. Upon application being filed in writing, verified by the oath of the guardian, the court, if satisfied of the propriety of selling such real estate, shall appoint two freeholders of the county to appraise said real estate.

§ 12. **Oath of Appraisers.**—SEC. 17. Said appraisers shall take an oath to honestly and impartially appraise at their fair cash value, which oath shall be endorsed on the certificate of their appointment.

§ 13. **Bond of Indemnity, etc.**—SEC. 18. Upon the appraisement of said real estate being filed in writing, signed by said appraisers, the court shall require such guardian to execute a bond with sufficient sureties, payable to the Territory of Washington, for the benefit of such orphan, in double the appraised value of such real estate, with conditions for the faithful performance of his duties and the faithful payment, and accounting for all moneys arising from sale according to law.

§ 14. **Order for Sale—Notice, Terms, etc.**—SEC. 19. Upon such bond being filed and approved by the court, the court shall order the sale of such real estate, providing in the order for reasonable notice of such sale, the credits to be given for the payment of the purchase money, and the mode of securing the same.

§ 15. **Who May Sell.**—SEC. 20. The court may empower the guardian to make sale of such real estate, or may appoint commissioners or commissioner for that purpose.

§ 16. **Report of Sale.**—SEC. 21. At the term of the court next after such sale, such guardian or commissioner shall make report thereof to such court, and produce the proceeds of such sale, and the notes or obli-



gations or other securities taken to secure the payment of the purchase money

§ 17. **Minimum Price of Real Estate.**—SEC. 22. Whenever such real estate is ordered by the court to be sold at private sale, the same shall not be sold for less than its appraised value, and when ordered to be sold at public auction, at not less than two-thirds of its appraised value.

§ 18. **Confirmation of Sale.**—SEC. 23. The court, in confirming such sale and directing a conveyance, shall be governed by the law regulating the confirming of sales of real estate made by executors or administrators, and the making of conveyances on such sales.

§ 19. **Partition of Real Estate.**—SEC. 24. The guardian of any minor may join in and assent to the partition of the real estate of such minor, under the direction of the court, upon a petition for partition.

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**No. 592.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

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CHAPTER XVI.

§ 2. **Appointment of Guardian.**—SEC. 321. The probate judge<sup>2</sup> of each county, when it shall appear to him necessary or convenient, may appoint guardians to minors resident in said county who have no guardian appointed by will, or who may reside out of the Territory, having estate within the county.

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§ 3. **Powers of Guardian.**—SEC. 327. Every guardian appointed as aforesaid shall have the custody and tuition of the minor and the care and management of the estate of such minor<sup>3</sup> until he or she shall have attained the age of majority, and males shall be deemed of full and legal age when they shall be twenty-one years old, and females shall be deemed of full and legal age when they shall be eighteen years old, or at any age under eighteen when, with the consent of the parent, guardian or other person under whose care or government they may be, they shall have been lawfully married

§ 4. **Guardian Shall Prosecute and Defend for Ward.**—SEC. 328. Guardians, by virtue of their office as such, shall be allowed, in all cases, to prosecute and defend for their wards

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§ 5. **Duties of Guardians.** SEC. 331. It shall be the duty of every guardian of any minor—(1) To make out and file, within three months after his appointment, a full inventory, verified by oath, of the real and personal estate of his ward, with the value of the same; and failing so to do, it shall be the duty of the proper court to remove him and appoint a successor. (2) To manage the estate for the best interests of his ward. \* \* \* (5) To pay all just debts due from such ward out of the estate in his hands, and collect all debts due such ward; and in case of doubtful debts to compound the same, and appear for and defend, or cause to be defended, all suits against such ward. \* \* \*

§ 6. **Investment of Estate.** SEC. 332. The probate court may, on the application of a guardian or any other person, said guardian having due written notice thereof, order and decree any change to be made in

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, pp. 165, 225.) For repealing clause etc., see No. 501 §§ 13 to 18, *supra*

<sup>2</sup> See Nos. 95 and 96, *infra*

the investment of the estate of any ward that may to such court seem advantageous to such estate.

§ 7. **Removal of Guardians.**—SEC. 333. The court of probate, in all cases, shall have power to remove guardians for good and sufficient reasons, which shall be entered on record, and to appoint others in their places, or in the place of those who may die, \* \* \*

§ 8. **Guardian Appointed by Will: Powers of.**—SEC. 335. The father of every legitimate child who is a minor may, by his last will in writing, appoint a guardian or guardians for his minor children, whether born at the time of making such will or afterwards, to continue during the minority of such child, or for any less time. \* \* \* And he shall have the same powers, and perform the same duties with regard to the person and estate of the ward, as a guardian appointed as aforesaid.

§ 9. **Guardian ad Litem.**—SEC. 336. Nothing contained in this act shall affect or impair the power of any court to appoint a guardian to defend the interests of any minor interested in any suit or matter pending therein [nor to appoint or allow any person as the next friend of a minor \*] to commence and prosecute any suit in his behalf.

§ 10. **When Real Estate of Ward May be Sold.**—SEC. 337. Whenever necessary for the education, support or payment of the just debts of any minor, or for the discharge of any liens on the real estate of such minor, or whenever the real estate of such minor is suffering unavoidable waste, or a better investment of the value thereof can be made, the probate judge<sup>2</sup> may, on the application of such guardian, order the same, or a part thereof, to be sold.

§ 11. **Application for Sale: Substance of.**—SEC. 338. Such application shall be by petition, verified by the oath of the guardian, and shall substantially set forth—(1) The value and character of all personal estate belonging to such ward that has come to the knowledge or possession of such guardian; (2) the disposition made of such personal estate; (3) the amount and condition of the ward's personal estate, if any, dependent upon the settlement of any estate, or the execution of any trust, (4) the annual value of the real estate of the ward; (5) the amount of rent received and the application thereof; (6) the proposed manner of re-investing the proceeds of the sale, if asked for that purpose; (7) each item of indebtedness, or the amount and character of the lien, if the sale is prayed for the liquidation thereof; (8) the age of the ward, where and with whom residing; (9) all other facts connected with the estate and condition of the ward necessary to enable the court fully to understand the same. If there is no personal estate belong[ing] to such ward, in possession or expectancy, and none has come into the hands of such guardian, and no rents have been received, the fact shall be stated in the application.

§ 12. **Order for Sale.**—SEC. 339. If it shall appear to the court from such petition and from the hearing thereon that it is necessary or would be beneficial to the ward that such real estate or some part of it should be sold, the court may authorize the said guardian to sell the same at public sale on the same terms and notice required for sales of real estate by executors and administrators; \* or if the court be satisfied that a sale at private sale will conduce to the advantage of said minor's estate, it may so order.

§ 13. **Manner, etc., of Sale.**—SEC. 340. All the provisions of the act regulating sales by executors and administrators \* shall be applicable to sales made by guardians.

<sup>2</sup> \* See Nos. 595, 596, *infra*. The [ ] shown at \* do not appear in this act: they are inserted for convenient reference.

\* See Nos. 536 and 535, *supra*.

§ 14. **Report of Sale.**—SEC. 341 At the term of the court next after such sale, such guardian shall make report thereof to such court, and produce the proceeds of such sale, and the notes or obligations or other securities taken to secure the payment of the purchase money.

§ 15. **Minimum Price of Real Estate.**—SEC. 342. Whenever such real estate is ordered by the court to be sold at private sale, the same shall not be sold for less than its appraised value, and when ordered to be sold at public auction, at not less than two-thirds of its appraised value.

§ 16. **Confirmation of Sale.**—SEC. 343 The court in confirming such sale and directing a conveyance shall be governed by the law regulating the confirming of sales of real estate made by executors or administrators and the making of conveyances on such sales.

§ 17. **Partition of Real Estate.**—SEC. 344. The guardian of any minor may join in and assent to the partition of the real estate of such minor under the direction of the court upon a petition for partition.

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§ 18. **Appeals, etc.**—SEC. 347 Appeals shall be allowed, in all cases, from any order or judgment of the probate court to the district court, embracing the county exercising jurisdiction, in the same manner as provided in this act<sup>7</sup> regarding executors and administrators and the settlement of estates.

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<sup>7</sup> See No. 590, *infra*.

# **No. 593.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 196, 265, chap. 19, secs. 355, 361, 362, 365, 366, 469 to 477, inclusive 381.) This No. is *verbatim* as No. 592, *supra*. All conflicting laws and parts of laws repealed. In effect from date.

## **No. 594.—AN ACT CONCERNING MINORS, THEIR RIGHTS AND LIABILITIES.<sup>1</sup>**

§ 1. **Period of Minority.**—SECTION 1 *Be it enacted, etc.,* That the period of minority extends in males to the age of twenty-one years and in females to the age of eighteen years.

§ 2. **Effect of Contracts.**—SEC. 2. A minor is bound not only by contracts for necessities but also by his other contracts, unless he disaffirms them within a reasonable time after he attains his majority, and restores to the other party all money and property received by him by virtue of the contract, and remaining within his control at any time after his attaining his majority

§ 3. **In What Case Disaffirmance of Contract Ineffective.**—SEC. 3. No contract can be thus disaffirmed in cases where on account of the minor's own misrepresentations as to his majority, or from his having engaged in business as an adult, the other party had good reasons to believe the minor capable of contracting

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<sup>1</sup> Approved Jan. 16, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 92.) In effect from date.



**No. 595.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

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<sup>1</sup> Approved Nov. 11, 1873. (See Fourth Bien. Sess. 1873, pp. 252, 314, chapter 17, secs. 299, 305, 306, 309, 310, 313 to 321, inclusive, 325.) This No. is *verbatim* as No. 592, except §§ 2 and 10 of said No. at 2 instead of "probate judge" read "probate court;" and § 3 at 3 after "minor" read "except as hereinafter provided;" and § 9 at 4 omit the words enclosed in [ ] and in place insert "or," so as to read "therein, or to commence," etc., and all of § 12 after "administrators" 5 is omitted. For repealing clause, etc., see No. 506, §§ 13 to 17, *supra*.

**No. 596.—PROBATE PRACTICE ACT.<sup>1</sup>**

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<sup>1</sup> Approved Dec. 1, 1881. (See Code, 1881, p. 272, chapter 111, secs. 1604, 1610, 1611, 1614, 1615, 1618 to 1626, inclusive, 1630.) This No. is *verbatim* as No. 592, except §§ 2 and 10 of said No. at 2 instead of "probate judge" read "probate court," and § 3 at 3 after "minor" read "except as hereinafter provided;" and § 9 at 4 omit the words enclosed in [ ] and in place insert "or," so as to read "therein or to commence," etc., and all of § 12 after "administrators" at 5 is omitted, and § 18 at 7 for "act" read "chapter." For repealing clause, date in effect, etc., see Nos. 338, 339 and 340.

**CHAPTER II—IDIOTS AND INSANE.**

**No. 597.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

**CHAPTER XVII.**

**§ 2. Appointment of Guardians for.—SEC. 848.** The several probate courts, in their respective counties in this Territory, shall have power to appoint guardians to take the care, custody and management of all idiots, insane persons and all who are incapable of conducting their own affairs and their estates, real and personal, and to provide for the safe keeping of such persons, the maintenance of themselves and families and the education of their children.

**§ 3. Inventory of Estate.—SEC. 857.** Within forty days after his appointment, such guardian shall make out and file in the office of the probate court by which he was appointed, a just and true inventory of the real and personal estate of his ward, stating the income and profits thereof, and the debts, credits and effects as the same shall have come to his view.<sup>2</sup>

**§ 4. Additional Inventory.—SEC. 858.** And if, after having filed such inventory, it shall be found that there is other property belonging to said estate, it shall be the duty of such guardian to make out and file an additional inventory, containing a just and full amount of the same, from time to time, as the same may be discovered.

**§ 5. How Inventories Made and Attested.—SEC. 859.** All such inventories shall be made in the presence of, and attested by, two credible

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, p. 230.) For repealing clause see No. 501, §§ 13 to 16, *supra*.

<sup>2</sup> See Nos. 599, 600, *infra*.

witnesses of the neighborhood, and shall be verified by the oath of the guardian

§ 6. **Guardian Shall Prosecute and Defend for.**—SEC. 360. It shall be the duty of every such guardian to prosecute all actions commenced at the time of his appointment, or thereafter to be commenced by or on account of his ward, and to defend all actions pending or which may be brought against such ward.

§ 7. **Powers of Guardian.**—SEC. 361. Every such guardian is authorized and required to collect all debts due to his ward, and give acquittances and discharges thereof, and adjust, settle and pay all demands due and becoming due from his ward, so far as his estate and effects will extend

§ 8. **Power of Probate Court.**—SEC. 362. Every probate court shall have power to make order for the restraint, support and safe-keeping of such person for the management of his estate, and the support and maintenance of his family and education of his children, out of the proceeds of his estate, to set apart and reserve, for the use of such family, and [any] property, real or personal, not necessary to be sold for the payment of debts, and to let, sell or mortgage any part of such estate, real or personal, when necessary for the payment of debts, the maintenance of such insane person or his family, or the education of his children.

§ 9. **If Personal Estate Insufficient, Real Estate May be Mortgaged, etc.** SEC. 363. Whenever the personal estate of such person shall be found to be insufficient to meet the foregoing requisitions, it shall be the duty of such guardian to lay the same before the probate court by whom he was appointed, setting forth the particulars relative to the estate, real and personal, of such person, and the debts by him owing, accompanied by a correct and true account of his doings therewith; whereupon it shall be the duty of such court to make an order, directing the mortgage, lease or sale, at his discretion, of the whole or such part of the real estate as may be necessary

§ 10. **Time and Terms of Sale, etc.—Notice, Manner and Report of.**—SEC. 364. The court making such order shall direct the time and terms of such sale, mortgage or lease of such estate, and the manner in which the proceeds shall be applied; and shall give due notice thereof, together with a full description of the property to be thus disposed of, at which time and place it shall be the duty of the guardian to execute the order of said court and to make a full report of his doings therein, which report shall be accompanied by the affidavit of the guardian verifying the report and stating that such guardian did not directly or indirectly become the purchaser thereof; or if otherwise disposed of, that he is not directly or indirectly interested personally in the agreement.

§ 11. **If Sale, etc., Approved, Court Shall Execute Deed, etc.**—SEC. 365. When any such sale, mortgage or lease is approved of by the court ordering the same as having been performed according to law, and not under such circumstances as to operate prejudicial to the interest of such ward, it shall be the duty of the court to execute a deed, mortgage or other instrument of writing, which shall be as valid and effective in law as if executed by such ward when of sound mind and discretion.

§ 12. **If Disapproved, to be Set Aside.**—SEC. 366. If such report be disapproved of by said court, as not doing justice to said ward, the court may set aside the proceedings, and proceed in like manner as if no sale had been made

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§ 13. **How Process Served—Execution Only Against Ward's Property.**—SEC. 368. No such ward shall be held to bail, or his body be taken



in execution, in any civil action; and in all actions commenced against him the process shall be served upon his guardian; and in all judgments against such ward (or his guardian as such) the execution shall be against the property of the ward only, and in no case against his body, nor against that of his guardian, nor the property of said guardian, unless he shall have rendered himself liable thereunto by false pleading or otherwise.

§ 14. **If Ward Recovers Reason, Guardian Discharged.**—SEC. 369. Whenever the court shall receive information that such ward has recovered his reason he shall immediately inquire into the facts; and if he finds that such ward is of sound mind, he shall forthwith discharge such person from care and custody, and the guardian shall immediately settle his accounts and restore to such person all things remaining in his hands belonging or appertaining to such ward.

§ 15. **In Case of Death of, Guardianship Shall Cease.**—SEC. 370. In case of the death of any such ward while under guardianship, the power of the guardian shall cease, and the estate descend and be disposed of in the same manner as if said ward had been of sound mind; and the guardian shall immediately settle his accounts and deliver the estate and effects of his ward to his legal representatives.

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**No. 598.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 16, 1863. (See Tenth Reg. Sess. 1862-63, pp. 198, 271, chap. 20, secs. 383, 394 to 403, inclusive, 405, 406, 410.) This No. is *verbatim* as No. 597, *supra*. All conflicting laws and parts of laws repealed. In effect from date. See No. 502, §§ 16 to 26.

**No. 599.—AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

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<sup>1</sup> Approved Nov. 11, 1878. (See Fourth Bien. Sess. 1878, pp. 252, 321, chap. 18, secs. 336, 336 to 344, inclusive, 346, 347, 351.) This No. is *verbatim* as No. 597, *supra*, except § 3 of said No. at 2 instead of "view" read "knowledge." For repealing clause, date in effect, etc., see No. 506, §§ 13 to 17.

**No. 600.—PROBATE PRACTICE ACT.<sup>1</sup>**

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<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 276, chap. 110, secs. 1631, 1641 to 1649, inclusive, and 1651, 1652, 1656.) This No. is *verbatim* as No. 597, *supra*, except § 3 of said No. at 2 instead of "view" read "knowledge;" and § 12 at 3 instead of "report" read "proceedings." For repealing clause, date in effect, etc., see Nos. 338, 339 and 340.

**CHAPTER III—NON-RESIDENT MINORS AND PERSONS OF UNSOUND MIND.**

**No. 601.—AN ACT RELATIVE TO MINORS AND PERSONS OF UNSOUND MIND RESIDING WITHOUT THE LIMITS OF THIS TERRITORY.<sup>1</sup>**

§ 1. **Real Estate of, May be Sold—Manner of Sale.**—SECTION 1. *Be it enacted, etc.* That real estate belonging to minors and persons of unsound mind residing out of this Territory may be sold upon the application of the foreign guardian of such minor or person of unsound mind

<sup>1</sup> Passed Jan. 21, 1859. (See Sixth Reg. Sess. 1858-59, p. 5.)

to the probate court of the county in which such land is situated, upon the terms as are or may be provided by law in case of the sale of real estate belonging to minors residing in this Territory.

§ 2. **Trustee for.**—SEC. 2 That when any minor or person of unsound mind residing out of the limits of this Territory has any real estate, goods, chattels, rights, credits, money or effects in this Territory, the probate court having jurisdiction of the county in which such property or any part thereof is situate, or may be, shall, upon the application of the foreign guardian of such minor or person of unsound mind, appoint a trustee of such minor or person of unsound mind to manage, collect, lease and take care of said property

§ 3. **Jurisdiction of Trustee.** SEC. 3 The appointment of a trustee, first lawfully made, shall extend to all the property and effects of the minor in this Territory, and shall exclude the jurisdiction of the probate court of any other county

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§ 4. **Trustee Cannot Apply for Sale.**—SEC. 6. The said trustee shall have no power to apply to the probate court for the sale of the real estate of such minor or person of unsound mind

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**No. 602. AN ACT DEFINING THE JURISDICTION AND PRACTICE IN THE PROBATE COURTS OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **SECTION 1** *Be it enacted, etc*

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**CHAPTER XIX.**

§ 2. **Real Estate of, May be Sold—Manner of Sale.**—SEC. 354. Real estate belonging to minors and persons of unsound mind, residing out of this Territory, may be sold upon the application of the foreign guardian of such minor or person of unsound mind to the probate court of the county in which such land is situated, upon the terms as are or may be provided by law in case of the sale of real estate belonging to minors residing in this Territory.

§ 3. **Trustee for.** SEC. 355 That when any minor or person of unsound mind, residing out of the limits of this Territory, has any real estate, goods, chattels, rights, credits, money or effects in this Territory, the probate court having jurisdiction of the county in which such property or any part thereof is situate or may be, shall, upon the application of the foreign guardian of such minor or person of unsound mind, appoint a trustee of such minor or person of unsound mind to manage, collect, lease and take care of said property

§ 4. **Jurisdiction of Trustee.**—SEC. 356 The first appointment of a trustee, lawfully made, shall extend to all the property and effects of the minor in this Territory, and shall exclude the jurisdiction of the probate court of any other county.

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§ 5. **Former Appointments of Trustees Declared Valid.**—SEC. 362. All appointments heretofore made of trustees for non-resident minors or persons of unsound mind, by any probate court in this Territory, under the provisions of an act passed January 21 1859, entitled "An act relative to minors and persons of unsound mind residing without the limits of this Territory," are hereby fully legalized and made valid; and all acts

<sup>1</sup>Approved Nov 11 1873. (See Fourth Bic. sess. 1871, pp. 252-326.)

lawfully done by trustees so appointed are hereby declared valid. And all such trustees, and the property under their control by virtue of such appointment by such probate courts, shall be fully subject to all the provisions of this chapter.

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#### No. 603.—PROBATE PRACTICE ACT.<sup>1</sup>

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<sup>1</sup>Approved Dec. 1, 1881. (See Code 1881, p. 280, chap. 111, secs. 1658 to 1660, inclusive, 1663, 1666.) This No. is verbatim as No. 602, *supra*. For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

### TITLE XV.—INSOLVENT DEBTORS.

#### No. 604.—AN ACT RELATIVE TO INSOLVENT DEBTORS.

§ 1. **How May be Discharged.**—SECTION 1. *Be it enacted, etc.,* That every insolvent debtor may be discharged from his debts, as hereinafter provided, upon executing an assignment of all his property, real, personal or mixed, for the benefit of all his creditors and upon compliance with the several provisions of this act: *Provided*, Said assignment be made *bona fide* and without fraud. The district court only shall have original jurisdiction in the subject-matter herein contained.

§ 2. **Petition: Substance of.**—SEC. 2 Such insolvent debtor shall petition the judge having original jurisdiction within the place of his domicile or usual residence, which petition shall briefly state the circumstances which compel him to surrender his property to his creditors, and shall conclude with a prayer to make a cession of his estate, and to be discharged from his debts, in pursuance of the provisions of this act.

§ 3. **Schedule: Substance of.**—SEC. 3. The debtor shall annex to said petition his schedule, that is to say, a summary statement of his affairs with a list of losses he may have sustained, giving the names of his creditors, if known; the amount due to each creditor, and the cause and nature of such indebtedness and when it accrued, and a statement of any existing judgment, mortgage, collateral or other securities for the payment of any such debt. Said schedule shall also contain a full, complete and perfect inventory of all his property, real, personal and mixed; of all choses in action, debts due or to become due, and all moneys on hand of such insolvent. Said schedule shall also contain a full statement of all incumbrances existing upon the property of the insolvent. The said debtor shall, as nearly as possible, estimate the property by him surrendered, and set it forth in the schedule at its true cash value.

§ 4. **Debtor's Oath.**—SEC. 4. The said schedule shall be signed by the debtor, and be by him sworn to before the judge having jurisdiction of the failure, or other officers authorized to administer oaths, in the following words, to wit: "I, (A. B.) do, in the presence of Almighty God, truly and solemnly swear, that the schedule now delivered by me doth contain a full, perfect and true discovery of all the estate, real, personal and mixed, goods and effects to me in any way belonging, all such debts

<sup>1</sup>Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 73.) In effect from date.



as are to me owing, or to any person or persons in trust for me, and all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me or to my use, or to any other person or persons in trust for me; that I have no lands, money, stock or estate, reversion or expectancy besides that set forth in my schedule, that I have in no instance created or acknowledged a debt for a greater sum than I honestly and truly owed; that I have not directly or indirectly sold or otherwise disposed of in trust, or concealed any part of my property, effects or contracts, that I have not in any way compounded with my creditors, whereby to secure the same, or to receive, or to expect any profit or advantage therefrom, or to defraud or deceive any creditor to whom I am indebted in any manner whatever: so help me God "

§ 5. **Order to Show Cause.**—SEC. 5 The judge receiving such petition, schedule and affidavit shall make an order requiring all the creditors of such insolvent to show cause, if any they can, why an assignment of the insolvent estate should not be made, and he be discharged from his debts. Said schedule being signed and sworn to by the petitioner, the judge shall certify the same and cause it to be filed in the office of the clerk of the court in the county where the assignment was made, there to remain for the information of the creditors.

§ 6. **What Property Exempt.** SEC. 6. The insolvent debtor, on a surrender of his property, shall include and set forth in his schedule his whole estate, including the homestead, if any he has, and all such property as may be by law exempt on execution from seizure and forced sale, and it shall be the duty of the judge having jurisdiction of the failure to exempt and set apart for the use and benefit of said insolvent such real and personal property as he is by law authorized to retain to his own use or that of his family.

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§ 7. **Notice to Creditors.** SEC. 8 The judge granting the order for the meeting of the creditors shall direct the clerk of the court to issue a notice calling the creditors of the insolvent to be and appear within thirty days from the date of publication of such notice, before such judge at chambers or in open court, to show cause why the prayer of said insolvent should not be granted. Said notice shall be published at least thirty days in a newspaper printed in the county in which application is made, if there be one, and if there be none, then in a newspaper printed nearest to such county.

§ 8. **Receiver May be Appointed.**—SEC. 9. When issuing the order for the meeting of the creditors the judge shall order that all proceedings against the debtor be stayed. *Provided, however,* That the said stay of proceedings shall not prevent the judge who shall have granted it from appointing a receiver to take possession of all property of the debtor for the benefit of all his creditors, if one or more of his creditors or his attorney shall apply for such appointment and swear that he has reasons to believe and does believe that the debtor may avail himself of the stay of proceedings and keep his property from his creditors, if no cause sufficient, in the judgment of the court, shall have been shown why the debtor should not have the benefit of this act, and shall produce satisfactory proof of the facts on which the affidavit is founded.

§ 9. **Appointment of Assignees: How Made.**—SEC. 10. At a meeting of creditors, the said creditors, after having certified on oath that their respective claims are legitimate and true, shall proceed to the appointment of one or more assignees, not exceeding three. In appointing assignees the opinion of the majority of said creditors in sums or in claims shall prevail. At such meeting any creditor may be represented by his duly authorized agent or attorney.

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**§ 10. How Debtor's Property Sold.**—SEC. 13. The assignees shall apply by petition to the court or judge who shall have ordered a meeting of creditors, to be authorized to sell at public auction and to the best and highest bidder for cash, all the insolvent debtor's property of whatever nature or kind, and said assignee shall give at least twenty days public notice, in the same manner as a notice for a meeting of creditors, of all sales of the property of said insolvent, giving at the same time a full description of the property to be disposed of \* \* \*

**§ 11. Fraudulent Bankrupts: Who Are.**—SEC. 26. That all persons shall be considered as fraudulent bankrupts who shall be convicted of having concealed their property with the intention to keep it from their creditors, as also those who shall be convicted of having concealed or altered their books or papers with the same intention.

**§ 12. Continued.**—SEC. 27. That every insolvent debtor shall also be considered as a fraudulent bankrupt who shall be convicted of having passed sham deeds for the purpose of conveying the whole or any part of his property and depriving his creditors thereof, or having intentionally omitted any of his property, rights or claims in his schedule, or of having purloined his books, or any of them, or of having altered, changed or made them anew with an intent to defraud his creditors, or of having fraudulently alienated, mortgaged or pledged any of his property, or of having committed any other kind of fraud to the prejudice of his creditors. \* \* \*

**§ 13. Effect of Fraud.**—SEC. 31. Whenever any insolvent debtor has had the benefit of this act, if thereafter at any time it is made to appear that he has concealed any part of his property or estate, or given a false schedule, or committed any fraud under the provisions of this act, it is hereby declared that he shall forfeit all benefit and advantage which he would otherwise have had by virtue of this act, and he cannot avail himself of any of its provisions in bar to any claim that may be instituted against him.

**§ 14. No Insolvency Through Agent.**—SEC. 32. No person can apply for or receive the benefit of this act through an agent or attorney in fact.

**§ 15. Effect of Assignment.**—SEC. 33. From and after the surrender of the property of the insolvent debtor, all property of such insolvent shall be fully vested in his assignee or assignees for the benefit of his creditors and shall not be liable to be seized, attached, taken or levied on by virtue of any execution issued against the property of said insolvent, and the assignees who may be appointed shall take possession of, and be entitled to claim and recover, all the said property, and to administer and sell the same as herein provided \* \* \*

**§ 16. Assignment Must be Bona Fide—Effect as to Mortgages, etc.**—SEC. 35. In case the debtor who applies for the benefit of this act should have no property to surrender to his creditors, or if the appraised value of the property exhibited in his schedule should not amount to more than one-third of his debts then existing and contracted during the next year preceding, the judge before whom the application is made shall not admit him to the benefit of this law, unless it be proven to the said judge, by affidavit sworn and subscribed to by two credible and disinterested witnesses, that the debtor in their opinion has really experienced the losses by him stated, and that the said losses may have reduced him to the situation in which he finds himself: *Provided*, All legal mortgages and liens *bona fide*, existing on such property at the time of surrender aforesaid, shall remain good and valid, and may be enforced in the same manner as though no such surrender had been made. \* \* \*



§ 17. **Co-Partnership Assignment: Manner of.**—SEC 88. One member of a firm or co-partnership may make an assignment of the co-partnership property with the consent in writing of the other member, and when all the members join in the petition, and include in the assignment all the individual as well as the partnership property, they may be discharged from their individual and partnership debts in one and the same proceeding, but in such proceeding the partnership property shall be applied towards the payment of the partnership debts, and the individual property to the payment of the individual debts.

§ 18. **Provisions of This Act Must be Observed.**—SEC. 89. No assignment of any insolvent debtor otherwise than is provided in this act shall be legal or binding upon creditors.

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#### No. 605. CHAPTER CXLII—INSOLVENT DEBTORS.<sup>1</sup>

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<sup>1</sup> (See Code 1881, p. 342, secs. 2014 to 2019, inclusive, 2021, 2022, 2028, 2039, 2040, 2044 to 2046, inclusive, 2048.) This number is *verbatim* as No. 604, *supra*, after enacting clause, except instead of "act" wherever it occurs in said No. read "chapter," and § 6 at 7 instead of "the homestead" read "his homestead." For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

### TITLE XVI—LIENS OF MECHANICS.

#### No. 606.—LIENS OF MECHANICS AND OTHERS, FOR LABOR AND MATERIALS.<sup>2</sup>

§ 1. **Who May Have—What Subject to.**—SECTION 1. *Be it enacted, etc.,* That mechanics, and all persons performing labor or furnishing materials for the construction or repair of any building, may have a lien, separately or jointly upon the building which they may have constructed or repaired, or upon any building mill or other manufactory for which they may have furnished materials of any description, and on the interest of the owner in the lot or land on which it stands, to the extent of the value of any labor done or materials furnished, or for both, when the amount shall exceed fifty dollars.

§ 2. **Notice of: How Filed—Substance of.**—SEC. 2. Any person wishing to acquire such lien, whether his claim be due or not, shall file in the recorder's office of the county in which such building is situated, at any time within sixty days after the completion of such building or repairs, a notice of his intention to hold a lien upon such building for the amount due, or to become due, specifically setting forth such amount, and containing a description of the building upon which the labor was performed or for which the materials were furnished, which notice shall be recorded by the auditor in a book to be kept for that purpose.

§ 3. **Lien of Sub-Contractor, etc.—Liability of Owner.**—SEC. 3. Any sub-contractor, journeyman or laborer employed in the construction or

<sup>1</sup> Passed April 22, 1854. (See First Reg. Sess. 1854, p. 392.)

<sup>2</sup> See Nos. 608, 609, *infra*.

repair, or furnishing materials for any building, may give to the owner thereof notice in writing, particularly setting forth the amount of his claim, and service rendered for which his employer is indebted to him, and that he holds the owner responsible for the same; and the owner shall be liable for such claim, but not to exceed the amount due from him to the employer at the time of notice, which may be recovered in an action.

**§ 4. Action to Enforce: Limitation of.**—SEC. 4. Any person having such lien may enforce the same by filing his complaint in the district court of the county where the work was done or materials furnished at any time within one year from the completion of the work or furnishing materials; or, if a credit be given, from the expiration of the credit.

**§ 5. Parties to Action—Judgment Sale of Premises, etc.**—SEC. 5. In such actions, all persons whose liens are recorded as herein provided, may be made parties, and all, or any number, may join in one action, stating their claims distinctly, and issues shall be made up and trials had as in other cases; and the court may, by the judgment, direct a sale of the defendant's interest in the lot or land (if he have any such saleable interest) and building for the satisfaction of the lien or liens, and costs, such sale to be under and by virtue of an execution, and without prejudice to the rights of any prior incumbrance, owner or other persons not parties to the action. If the defendant or defendants in such action be not entitled to such interest in the lot or land on which such building is erected as is liable to sale under execution, then the purchaser at the sale herein provided for shall be entitled to remove from the premises such property so sold by execution and purchased. If several such actions be brought by different claimants and be pending at the same time, the court may order them to be consolidated.

**§ 6. If Proceeds Insufficient, to be Divided Ratably.**—SEC. 6. If the proceeds of the sale be insufficient to pay all the claimants, then the court shall order them to be paid in proportion to the amount due each, and any other property of the owner of the building may be taken and sold on execution to satisfy the same.

**§ 7. Satisfaction of: How Entered.**—SEC. 8. Whenever any person, having a lien by virtue of the provisions of this act, shall have received satisfaction for his claim and the costs of his proceedings thereon, he shall, upon the request of any person interested and upon the payment or tender of the costs of entering satisfaction, within six days after such payment or tender, enter satisfaction of his demand in the office where the same is recorded.

#### **No. 607.—AN ACT RELATING TO LIENS OF MECHANICS AND OTHERS FOR LABOR AND MATERIALS.<sup>1</sup>**

<sup>1</sup> Passed Jan. 19, 1860. (See Seventh Reg. Sess. 1859-60, p. 285, sects. 1, 2, 3, 4, 5, 6, 8.) This No. is *verbatim* as No. 606, *supra*, except § 3 of said No. at <sup>2</sup> the words "to be" are omitted.

#### **No. 608.—AN ACT RELATING TO LIENS OF MECHANICS AND OTHERS FOR LABOR AND MATERIALS.<sup>1</sup>**

<sup>1</sup> Passed Jan. 19, 1863. (See Tenth Reg. Sess. 1862-63, p. 418, sects. 1, 2, 3, 4, 5, 6, 8.) This No. is *verbatim* as No. 606, *supra*, except § 3 of said No. at <sup>2</sup> the words "to be" are omitted. All conflicting acts and parts of acts are repealed. In effect from date.

**No. 609. —AN ACT RELATING TO LIEN OF MECHANICS AND MATERIAL MEN <sup>1</sup>**

§ 1. **Who not Entitled to.** — SECTION 1. *Be it enacted, etc.* That any person who may take or accept a collateral security or other evidence of personal obligation and liability in discharge of a contract for work and labor done or material furnished shall not be entitled to a lien upon the building, improvement or fixture, and land upon which the same is erected, for said labor or material

§ 2. **Who May Have — What Subject to.** SEC. 2 Every mechanic or other person who shall do any labor upon or furnish any material, machinery or fixture for any building, structure, erection or other improvement upon or attached to land, including those engaged in the construction or repair of any wharf, bridge, railway, or other work of internal improvement, by virtue of any contract with the owner, his agent, trustee, contractor or sub-contractor, upon complying with the provisions of this act, shall, for his labor done or materials, machinery or fixtures furnished, shall have a lien upon such building, erection, wharf or other improvement, and upon the land belonging to such owner, to the extent of the interest of said owner in said land on which the same is erected or situated, to secure the payment for such labor done or materials, machinery or fixtures furnished. \* \* \*

§ 3. **Notice of: How Filed — Substance of.** — SEC 3 Any person wishing to acquire such lien, whether his claim be due or not, shall file in the county auditor's office of the county in which such building, structure or improvement is situated, at any time within sixty days after the completion of such building or repairs, a notice of his intention to hold a lien upon such building, structure or improvement, for the amount due, or to become due, specifically setting forth such amount, and containing a description of the building, structure or improvement upon which the labor was performed or for which the materials were furnished, which notice shall be recorded by the auditor in a book kept for that purpose.

§ 4. **Lien of Sub-Contractor, etc. — Liability of Owner.** SEC 4 Any sub-contractor, journeyman or laborer employed in the construction or repair or furnishing materials for any building structure or improvement may give the owner thereof notice in writing, particularly setting forth the amount of his claim and services rendered for which his employer is indebted to him and that he holds the owner responsible for the same, and the owner shall be liable for such claims, but not to exceed the amount due from him to the employer at the time of notice.

§ 5. **Railway Subject to — How Served.** SEC 5 Every railway owner, company, or contractor and sub contractor upon any railway, shall be deemed to have the notice provided by the preceding section (4) for a period of sixty days from the last day of the month in which such labor was performed or material furnished, during which period any person who has performed such labor or furnished such material may file a notice of lien with the county auditor of the proper county, as provided in preceding section, which lien shall be binding upon the erection, excavation, embankment, bridge road-bed or right of way, and upon all land upon which the same may be situated, to the full value of such labor or material in the county in which the lien is filed. In case the lien is sought to be enforced against the owner, the liability shall not be greater than his liability would have been to the contractor at the time the labor was performed or material furnished.

§ 6. **Action to Enforce: Limitation of.** SEC 6 Any person having such lien may enforce the same by filing his complaint in the district

<sup>1</sup>Approved Nov. 14, 1873. (See Fourth Hen. Sess. 1873, p. 411.)



court of the county where the work was done, or materials furnished, at any time within one year from the completion of the work, or furnishing materials; or, if a credit be given, from the expiration of the credit.

**§ 7. Parties to Action—Judgment—Sale of Premises.**—SEC. 7. In such actions, all persons whose liens are recorded, as herein provided, may be made parties, and all or any number may join in one action, stating their claims distinctly, and issues shall be made up and trials had as in other cases; and the court may by judgment direct a sale of the defendant's interest in the lot or land (if he have any such saleable interest) and building for the satisfaction of the lien or liens and costs; such sale to be made under and by virtue of an execution and without prejudice to the rights of any prior incumbrance, owner or other persons not parties to the action. If the defendant or defendants in such action be not entitled to such interest in the lot or land on which such building is erected, as is liable to sale on such execution, then the purchaser at the sale herein provided for shall be entitled to remove from the premises such property so sold by execution and purchased. If several such actions be brought by different claimants and be pending at the same time, the court may order them to be consolidated.

**§ 8. If Proceeds Insufficient, to be Divided Ratably.**—SEC. 8. If the proceeds of the sale be insufficient to pay all the claimants, then the court shall order them to be paid in proportion to the amount due each, and any other property of the owner of the building may be taken and sold on execution to satisfy the same.

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**§ 9. Satisfaction of: How Entered.**—SEC. 10. Whenever any person, having a lien by virtue of the provisions of this act, shall have received satisfaction for his claim and the costs of his proceedings thereon, he shall, upon the request of any person interested and upon the payment and tender of the costs of entering satisfaction, within six days after such payment or tender, enter satisfaction of his demand in the office where the same is recorded; \* \* \*

#### No. 610.—AN ACT RELATING TO LIENS.<sup>1</sup>

**§ 1. SECTION 1.** *Be it enacted, etc.*

#### CHAPTER III.

**§ 2. Who May Have—What Subject to.**—SEC. 19. Every person performing labor upon or furnishing materials to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dyke, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct, to create hydraulic power, or any other structure, or who perform labor in any mine or mining claim, has a lien upon the same for the work or labor done or materials furnished by each, respectively, whether done or furnished at the instance of the owner of the building or other improvement or his agent; and every contractor, sub-contractor, architect, builder or person having charge of any mining or of the construction, alteration or repair, either in whole or in part, of any building or other improvement as aforesaid, shall be held to be the agent of the owner for the purposes of this chapter.

**§ 3. Lot in Incorporated City Subject to.**—SEC. 20. Any person who, at the request of the owner of any lot in any incorporated city or town, grades, fills in or otherwise improves the same or the street in front of or adjoining the same, has a lien upon such lot for his work done and materials furnished.

<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 216, 219.) In effect from date.

§ 4. **The Interest, Only, of Person Liable, Subject to.**—SEC. 21. The land upon which any building, improvement or structure is constructed, together with a convenient space about the same, or so much as may be required for the convenient use and occupation thereof, to be determined by the court on rendering judgment, is also subject to the lien if, at the commencement of the work or of the furnishing of the materials for the same, the land belonged to the person who caused said building, improvement or structure to be constructed, altered or repaired, but if such person owned less than a fee simple estate in such land, then only his interest therein is subject to such lien.

§ 5. **Preferred to Other Liens.**—SEC. 22. The liens provided for in this chapter are preferred to any lien, mortgage or other incumbrance which may have attached subsequent to the time when the building, improvement or structure was commenced, work done or materials were commenced to be furnished, also to any lien, mortgage or other incumbrance of which the lien holder had no notice and was unrecorded at the time the building, improvement or structure was commenced, work done or the materials were commenced to be furnished.

§ 6. **Notice of: How Filed—Substance of.**—SEC. 23. Every original contractor, within sixty days after the completion of his contract, or other termination thereof, and every person save the original contractor claiming the benefit of this chapter must, within thirty days after the completion of any building, improvement or structure, or after the completion of the alteration or repair thereof, or after he has ceased to labor thereon from any cause, or after he has ceased to furnish materials therefor, or after the performance of any labor in a mine or mining claim, file for record with the county auditor of the county in which such property or some part thereof is situated, a claim containing a statement of his demand, after deducting all just credits and offsets, with the name of the owner or reputed owner, if known, and also the name of the person by whom he was employed or to whom he furnished the materials, with a statement of the terms (time given) and condition of his contract, and also a description of the property to be charged with the lien sufficient for identification, which claim must be verified by the oath of himself or some other person, to the effect that the affiant believes the claim to be just.

§ 7. **Extent of, in Certain Cases.**—SEC. 24. In every case in which one claim is filed against two or more buildings, mines, mining claims or other improvements owned by the same person, the person filing such claim must at the same time designate the amount due to him on each of such buildings, mines, mining claims or other improvements, otherwise the lien of such claim is postponed to other liens. The lien of such claim does not extend beyond the amount designated as against other creditors having liens by judgment, mortgage or otherwise upon either of such buildings or other improvements or upon the land upon which the same are situated.

§ 8. **Recording.**—SEC. 25. The county auditor must record the claim mentioned in this chapter, in a book kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed and for which he may receive the same fees as are allowed by law for recording deeds and other instruments.

§ 9. **Limitation of.**—SEC. 26. No lien provided for in this chapter binds any building, mining claim, improvement or structure for a longer period than four calendar months after the claim has been filed, unless proceedings be commenced in a proper court within that time to enforce such lien, or if a credit be given, then four calendar months after the expiration of such credit, but no lien continues in force under this chapter for a longer time than two years from the time the work is completed by any agreement to give credit.



**§ 10. How Responsibility of Owner May be Avoided.**—SEC. 27. Every building or other improvement mentioned in section nineteen of this chapter, constructed upon any lands with the knowledge of the owner or the person having or claiming any interest therein, shall be held to have been constructed at the instance of such owner or person having or claiming any interest therein, and the interest owned or claimed shall be subject to any lien provided for under the provision of this chapter, unless such owner or person having or claiming an interest therein shall, within three days after he shall have obtained knowledge of the construction, alteration or repair, or the intended construction, alteration or repair, give notice that he will not be responsible for the same by posting a notice in writing to such effect in some conspicuous place upon said land, or upon the building or other improvement situated thereon.

**§ 11. What Amount May be Recovered.**—SEC. 28. The contractor shall be entitled to recover upon the claim filed by him only such amount as may be due to him according to the terms of his contract, after deducting all claims of other parties for work done and materials furnished as aforesaid; and in all cases where a claim shall be filed under this chapter for work done or materials furnished to any contractor, he shall defend any action brought thereupon at his own expense; and during the pendency of such action the owner may withhold from the contractor the amount of money for which the claim is filed; and in case of judgment against the owner or his property upon the lien the said owner shall be entitled to deduct from any amount due or to become due by him to the contractor the amount of such judgment and costs, and if the amount of such judgment and costs shall exceed the amount due by him to the contractor, or if the owner shall have settled with the contractor in full, he shall be entitled to recover back from the contractor any amount so paid by him, the said owner, in excess of the contract price, and for which the contractor was originally the party liable.

**§ 12. Priority of Liens—Judgment for Deficiency.**—SEC. 29. In every case in which different liens are asserted against any property, the court, in the judgment, must declare the rank of each lien or class of liens, which shall be in the following order (1) All persons other than the original contractors and sub-contractors. (2) The sub-contractors. (3) The original contractors. And the proceeds of the sale of the property must be applied to each lien or class of liens in the order of its rank, and whenever, on the sale of the property subject to the lien, there is a deficiency of proceeds, judgment may be rendered for the deficiency in like manner and with like effect as in actions for the foreclosure of mortgages.

**§ 13. Consolidation of Actions—Costs.**—SEC. 30. Any number of persons claiming liens may join in the same action, and when separate actions are commenced the court may consolidate them. The court may also allow as part of the costs the moneys paid for filing and recording the claim and reasonable attorney's fee in the district and supreme court.

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**§ 14. Claimant May Have Personal Action to Recover.**—SEC. 32. Nothing contained in this chapter shall be construed to impair or affect the right of any person to whom any debt may be due for work done or materials furnished to maintain a personal action to recover such debt against the person liable therefor.

**§ 15. Manner of Proceedings to Enforce.**—SEC. 33. The liens provided for in this chapter may be enforced in a civil action in the same manner, and under the same proceedings, as govern in the foreclosure of a mortgage on real estate.

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## CHAPTER V

§ 16. **Words of This Act Construed.**—SEC. 37. In construing the provisions of this act words used in the masculine gender include the feminine and neuter, the singular number includes the plural and the plural the singular, the word person includes a corporation as well as a natural person, and the word writing includes printing.

§ 17. **Repealing Clause.**—SEC. 38. All acts relating to any kind or class of liens provided for in this act are hereby repealed, but no action or proceeding commenced before this act takes effect, and no right accrued is affected by such repeal, but the proceedings therein must conform to the requirements of this act as far as applicable.

§ 18. **Extent and Construction of This Act.**—SEC. 39. This act establishes the law of this Territory respecting the subject to which it relates, and its provisions and all proceedings under it are to be liberally construed with a view to effect its object.

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**No. 611.—CHAPTER CXXXVIII—LIENS OF MECHANICS AND OTHERS  
UPON REAL PROPERTY<sup>1</sup>**

§ 1. **Who May Have—What Subject to.**—SEC. 1957. Every person performing labor upon or furnishing materials to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dyke, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct to create hydraulic power, or any other structure, or who performs labor in any mine or mining claim, has a lien upon the same for the work or labor done or materials furnished by each, respectively, whether done or furnished at the instance of the owner of the building or other improvement or his agent, and every contractor, sub-contractor, architect, builder or person having charge of any mining or of the construction, alteration or repair either in whole or in part of any building or other improvement as aforesaid, shall be held to be the agent of the owner for the purposes of this chapter.

§ 2. **Lot in Incorporated City Subject to.**—SEC. 1958. Any person who, at the request of the owner of any lot in any incorporated city or town, grades, fills in or otherwise improves the same or the street in front of or adjoining the same, has a lien upon such lot for his work done and materials furnished.

§ 3. **The Interest Only of Person Liable, Subject to.**—SEC. 1959. The land upon which any building, improvement or structure is constructed, together with a convenient space about the same, or so much as may be required for the convenient use and occupation thereof, to be determined by the court on rendering judgment, is also subject to the lien if, at the commencement of the work, or of the furnishing of the materials for the same, the land belonged to the person who caused said building, improvement or structure to be constructed, altered or repaired; but if such person owned less than a fee simple estate in such land then only his interest therein is subject to such lien.

§ 4. **Preferred to Other Liens.**—SEC. 1960. The liens provided for in this chapter are preferred to any lien, mortgage or other incumbrance which may have attached subsequent to the time when the building, improvement or structure was commenced, work done or materials were commenced to be furnished, also to any lien, mortgage or other incumbrance of which the lien holder had no notice and was unrecorded at the time the building, improvement or structure was commenced, work done or the materials were commenced to be furnished.

<sup>1</sup> (See Code 1891, p. 338.) For repealing clause, date in effect, etc. see Nos. 318, 339, 340.



**§ 5. Notice of: How Filed—Substance of.**—SEC. 1961. Every person claiming the benefit of this chapter must, within sixty days after the completion of any building, improvement or structure, or after the completion of the alteration or repair thereof, or after he has ceased to labor thereon from any cause, or after he has ceased to furnish materials therefor, or after the performance of any labor in a mine or mining claim, file for record with the county auditor of the county in which such property or such part thereof is situated, a claim containing a statement of his demand, after deducting all just credits and offsets, with the name of the owner or reputed owner, if known, and also the name of the person by whom he was employed or to whom he furnished the materials, with a statement of the terms and conditions of his contract, if any, and also a description of the property to be charged with the lien sufficient for identification, which claim must be verified by the oath of the claimant or some other person to the effect that the affiant believes the claim to be just.

**§ 6. Extent of, in Certain Case.**—SEC. 1962. In every case in which one claim is filed against two or more buildings, mines, mining claims, or other improvements owned by the same person, the person filing such claim must at the same time designate the amount due to him on each of such buildings, mines, mining claims, or other improvements, otherwise the lien of such claim is postponed to other liens. The lien of such claim does not extend beyond the amount designated as against other creditors having liens by judgment, mortgage or otherwise upon either of such buildings or other improvements, or upon the land upon which the same are situated.

**§ 7. Recording.**—SEC. 1963. The county auditor must record the claims mentioned in this chapter, in a book kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed, and for which he may receive the same fees as are already allowed by law for recording deeds or other instruments.

**§ 8. Limitation of.**—SEC. 1964. No lien provided for in this chapter binds any building, mining claim, improvement or structure for a longer period than eight calendar months after the claim has been filed, unless proceedings be commenced in a proper court within that time to enforce such lien, or if a credit be given, then eight calendar months after the expiration of such credit; but no lien shall continue in force under this chapter for a longer time than two years from the time the work is completed by agreement or credit given.

**§ 9. How Responsibility of Owner May be Avoided.**—SEC. 1965. Should the owner or owners of any land desire to prevent the lien from attaching, as herein provided for in cases where he or they have not themselves contracted for the construction, alteration or repair of the works mentioned in section 1957, he or they may do so by giving a notice in writing, posted in some conspicuous place upon said land or improvement, to the effect that he or they will not be responsible for said improvement; said notice to be posted within ten days after said owner or owners come to a knowledge of the making of said improvements.

**§ 10. What Amount May be Recovered.**—SEC. 1966. The contractor shall be entitled to recover upon the claim filed by him only such amount as may be due to him according to the terms of his contract, after deducting all claims of other parties for work done and materials furnished as aforesaid; and in all cases where a claim shall be filed under this chapter for work done or materials furnished to any contractor, he shall defend any action brought thereupon at his own expense; and during the pendency of such action the owner may withhold from the contractor the amount of money for which the claim is filed; and in case of judgment against the owner or his property, upon the lien, the said owner shall be entitled to deduct from any amount due or to become due by him to the contractor, the amount of such judgment and costs, and if the

amount of such judgment and costs shall exceed the amount due by him to the contractor, or if the owner shall have settled with the contractor in full, he shall be entitled to recover back from the contractor any amount so paid by him, the said owner, in excess of the contract price and for which the contractor was originally the party liable.

§ 11. **Priority of Liens—Judgment for Deficiency.**—SEC. 1967. In every case in which different liens are asserted against any property, the court in the judgment must declare the rank of each lien or class of liens, which shall be in the following order: (1) All persons other than the original contractors and sub-contractors; (2) the sub-contractors; (3) the original contractors, and the proceeds of the sale of the property must be applied to each lien or class of liens in the order of its rank; and whenever on the sale of property subject to the lien there is a deficiency of proceeds, judgment may be rendered for the deficiency in like manner and with like effect as in actions for the foreclosure of mortgages.

§ 12. **Consolidation of Actions—Costs.**—SEC. 1968. Any number of persons claiming liens may join in the same action, and when separate actions are commenced the court may consolidate them. The court may also allow as part of the costs the moneys paid for filing and recording the claim, and reasonable attorney's fee in the district and supreme court.

§ 13. **Claimant May Have Personal Action to Recover.**—SEC. 1970. Nothing contained in this chapter shall be construed to impair or affect the right of any person to whom any debt may be due, for work done or materials furnished, to maintain a personal action to recover such debt against the person liable therefor.

§ 14. **Manner of Proceedings to Enforce.**—SEC. 1971. The liens provided for in this chapter may be enforced in a civil action in the same manner and under the same proceedings as govern in the foreclosure of a mortgage on real estate.

**No. 612.—AN ACT TO AMEND SECTION 1961 OF CHAPTER CXXXVIII OF THE CODE OF WASHINGTON TERRITORY, RELATING TO LIENS OF MECHANICS AND OTHERS UPON REAL PROPERTY.<sup>1</sup>**

§ 1. **Notice of: How Filed—Substance of.**—*Be it enacted, etc.* SECTION 1. That section 1961<sup>2</sup> of chapter CXXXVIII of the Code of Washington Territory, relating to liens of mechanics and others upon real property, be and the same is hereby amended to read as follows: Section 1961. Every person claiming the benefit of this chapter must, within ninety days after the completion of any building, improvement or structure, or after the completion of the alteration or repair thereof, or after he has ceased to labor thereon from any cause, or after he has ceased to furnish materials therefor, or after the performance of any labor in a mine or mining claim, file for record with the county auditor for the county, in which such property or some part thereof is situated, a claim containing a statement of his demand, after deducting all just credits and offsets, with the name of the owner, or reputed owner, if known, and also the name of the person by whom he was employed, or to whom he furnished the materials, with a statement of the terms and conditions of his contract, if any, and also a description of the property to be charged with the lien, sufficient for identification, which claim must be verified by the oath of the claimant, or some other person, to the effect that the affiant believes the same to be just.

SEC. 2. This act shall take effect and be in force from and after March 1, 1888

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Blen. Sess. 1887-88, p. 131.)

<sup>2</sup> See No. 611, § 5. *supra*.



## TITLE XVII—MARRIAGE.

No. 613.—AN ACT TO REGULATE MARRIAGES.<sup>1</sup>

§ 1. **A Civil Contract.**—SECTION 1. *Be it enacted, etc.,* That marriage is declared to be a civil contract.

§ 2. **What, Are Void.**—SEC. 2 The following marriages are declared void: (1) When either party had a wife or husband living at the time of such marriage. (2) Where either of the parties are nearer of kin than first cousins, computing according to the rules of the civil law, whether of the whole or half blood: *Provided*, That when the parties whose marriage is void under the causes in this section mentioned shall continue to live together as man and wife after such disability is removed, such marriages shall be valid to all intents and purposes.

§ 3. **Issue of Void, Legitimate.**—SEC. 3. All children born of marriages declared void by the preceding section, and all children born of persons living and cohabiting together as man and wife, and all children born out of wedlock whose parents shall intermarry, shall for all purposes be legitimate.

§ 4. **Form of—Who May Solemnize.**—SEC. 4. Ministers of the gospel, clergymen and priests, and judges of the supreme court may join parties in marriage throughout this Territory; and judges of the probate court and justices of the peace within their respective counties, and parties may be joined in marriage by the Society of Friends according to the rules of their society: *Provided*, That no marriage, legal in other respects, shall be void on account of the incapacity of the person joining parties in marriage.

§ 5. **Infants Must Obtain Consent.**—SEC. 5. Males under the age of twenty-one, and females under the age of eighteen, shall not be joined in marriage without the consent of the parents, guardian or other person under whose government such minor may be.

§ 6. **Informalities Immaterial if Intention Bona Fide.**—SEC. 6. No marriage shall be void or voidable for the want of any formality required by law, if either of the parties thereto believed it to be a legal marriage at the time.

§ 7. **Certificate of, to be Filed in the Probate Court.**—SEC. 7. Every person who shall join persons in marriage by virtue of the provisions of this act shall, within three months thereafter, under a penalty of not less than twenty or more than a hundred dollars for each and every neglect, file a certificate in the office of the clerk of the probate court of the county in which such persons were joined in marriage, which certificate shall by such clerk be recorded, and a certified copy thereof shall be evidence of such marriage.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 404.)

No. 614.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REGULATE MARRIAGE," PASSED APRIL 20, 1854.<sup>1</sup>

§ 1. **Miscegenation Renders Void.**—SECTION 1. *Be it enacted, etc.,* That all marriages heretofore solemnized in this Territory, where one of the parties to such marriage shall be a white person, and the other pos-

<sup>1</sup> Passed Jan. 29, 1855. (See Second Reg. Sess. 1854-55, p. 33.) In effect from date.



assed of one-fourth or more negro blood, or more than one-half Indian blood, are hereby declared void.

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§ 2. **Repealing and Saving Clauses.**—SEC. 8. All laws conflicting with the provisions of this act are hereby repealed: *Provided*, That nothing in this act shall be so construed as to prevent any parties from being united in marriage who may be living together at the time of the passage of this act.

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**No. 615.—AN ACT TO AMEND "AN ACT AMENDATORY TO AN ACT TO REGULATE MARRIAGES," PASSED JANUARY 29, 1855.<sup>1</sup>**

§ 1. **Law of Miscegenation Not Retroactive.**—SECTION 1. *Be it enacted, etc.*, That the act to which this is an amendment<sup>2</sup> be and the same is hereby amended by striking out the word "heretofore," in the second line of the first section of said act, and that the word "hereafter" be inserted in lieu thereof

<sup>1</sup> Passed Jan. 21, 1859. (See Sixth Bien. Sess. 1858-59, p. 24.)

<sup>2</sup> See No. 614, § 1, *supra*

**No. 616.—AN ACT TO REGULATE MARRIAGES.<sup>1</sup>**

§ 1. **A Civil Contract—Who Capable of.**—SECTION 1. *Be it enacted, etc.*, That marriage is a civil contract, which may be entered into by males of the age of twenty-one years, and females of the age of sixteen years, who are otherwise capable.

§ 2. **What, Are Prohibited.**—SEC. 2. Marriages in the following cases are prohibited: (1) When either party thereto has a wife or husband living at the time of such marriage. (2) When the parties thereto are nearer of kin to each other than second cousins, whether of whole or half blood, computing by the rules of the civil law. (3) When either of the parties thereto is a white person and the other a negro or Indian, or a person of one-half or more negro or Indian blood.

§ 3. **What, Are Voidable.**—SEC. 3. When either party to a marriage shall be incapable of consenting thereto, for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed.

§ 4. **Who May Solemnize.**—SEC. 4. Marriages may be solemnized by any regularly ordained and authorized minister or priest of any church or religious denomination in this Territory, and by any justice or judge of district or probate court anywhere within the Territory, and by any justice of the peace within their respective counties.

§ 5. **What Parties to, Shall Declare.**—SEC. 5. In the solemnization of a marriage, no particular form is required, except that the parties thereto shall assent or declare in the presence of the minister, priest or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be husband and wife.

§ 6. **Certificate of.**—SEC. 6. The person solemnizing a marriage, shall give to each of the parties thereto, if required, a certificate thereof, specifying therein the names and residence of the parties, and of at least two witnesses present, the time and place of such marriage and the date of the license thereof, and by whom issued.

<sup>1</sup> Approved Jan. 20 1866. (See Thirteenth Reg. Sess. 1865-66, p. 60.) Inconsistent acts repealed. In effect from date.

**§ 7. Certificate to be Filed With Clerk of Probate Court.**—SEC. 7. A person solemnizing a marriage shall, within three months thereafter, make and deliver to the clerk of the probate court of the county where the marriage took place, a certificate containing the particulars specified in the last section, which said certificate may be in the following form:

TERRITORY OF WASHINGTON, COUNTY OF ———:

This is to certify that the undersigned, a ——— by authority of a license bearing date ——— day of ———, A. D. 18—, and issued by the county auditor of the county of ———, did on the ——— day of ———, A. D. 18—, at the house of ———, in the county and Territory aforesaid, join in lawful wedlock, A. H., of the county of ———, of the ———, and C. D., of the county of ———, of the ———, with their mutual assent, in the presence of F. H. and E. G., witnesses.

Witness my hand.

**§ 8. Record of Certificate.**—SEC. 8. The clerk of the probate court shall file such certificate, and record the same in the record of marriages.

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**§ 9. Want of Authority to Solemnize, Not to Affect, if Intent Bona Fide.**—SEC. 10. A marriage solemnized before any person professing to be a minister or a priest of any religious denomination in this Territory, or professing to be any authorized officer thereof, is not void, nor shall the validity thereof be in any way affected on account of any want of power or authority in such person, if such marriage be consummated with a belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

**§ 10. How Illegitimates Legitimized—Established Religious Form of, Sufficient.**—SEC. 11. Illegitimate children become legitimate by the subsequent marriage of their parents with each other; and all marriages to which there are no legal impediments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid, but in such case a certificate thereof, containing the particulars specified in sections six and seven, shall be made and filed for record by the person or persons presiding or officiating in such religious organization or congregation, in the manner and with like effect as in ordinary cases.

**§ 11. License Necessary.**—SEC. 12. Before any person can be joined in marriage, they shall produce a license from the county auditor of the county in which the female resides, directed to any person or religious organization or congregation, to join together the persons therein named as husband and wife.

**§ 12. If Female an Infant, Written Consent Necessary Before License Issues.**—SEC. 13. Such license shall not issue without the written consent of the parents or guardian, if there be any, if the female be within sixteen years, or the male within the age of twenty years, nor in any case unless the female is over sixteen years, and the male is over twenty years of age, but if either of the parties, being of an age capable of contracting marriage, have no parents or guardian resident within this Territory, and the female has resided within this Territory for the period of three months next preceding such application, the license may issue, if otherwise proper, without the consent mentioned in this section.

**§ 13. Affidavit for License.**—SEC. 14. Before the license issues, the applicant therefor shall file with the auditor an affidavit of some credible person other than the parties seeking the license, showing the facts specified in the last section, or any of them that may be necessary to be shown in the particular case, except the consent of the parent or guardian, and such affidavit shall be sufficient authority to the auditor, so far as such facts are concerned, for issuing the license.

**§ 14. Disposition and Record of License.**—SEC. 15. The person solemnizing the marriage is authorized to retain in his possession the license, but the auditor who issue the same, before delivering it, shall enter in his

marriage record a memorandum of the names of the parties, the consent of the parents or guardian, if any, and the name of the affiant, and the substance of the affidavit upon which said license issued, and the date of such license.

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**No. 617.—AN ACT DECLARING LEGITIMATE THE ISSUE OF MARRIAGES OF WHITE MEN WITH INDIAN WOMEN.<sup>1</sup>**

§ 1. **Rights of—Inheritance Restricted.**—SECTION 1. *Be it enacted, etc.*, That all marriages heretofore entered into or solemnized between white men and Indian women in accordance with the forms of law, in which there shall be issue, such marriage shall be so far recognized as legal as to secure to all issue thereof, before or after their marriage, against either of the parties to the same, the same rights as legitimate children, such issue, however, cannot claim by right of inheritance other than are deemed by and through the parents of such child or children.

§ 2. **Further Restriction.**—SEC. 2. That when there is any issue by a former marriage, that the issue from marriage as named in section one of this act shall be debarred from the right of inheritance.

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<sup>1</sup> Approved Jan. 20, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 85.) In effect from date.

**No. 618.—AN ACT AMENDING AN ACT ENTITLED "AN ACT TO REGULATE MARRIAGES," APPROVED JANUARY 20, 1866.<sup>1</sup>**

§ 1. **Anditor Must be Satisfied That Parties to, Are of Capable Age.**—SECTION 1. *Be it enacted, etc.*, That section thirteen<sup>2</sup> of the act of which this is amendatory be and the same is hereby so amended as to read as follows: "Such license shall not issue without the written consent of the father, mother or other guardian of the person for whom the license is required, in cases when such person is a female under eighteen years of age, or a male under twenty-one years of age, and the officer granting the license shall be satisfied that said persons are over that age before he grants such license without such written consent."

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<sup>1</sup> Approved Jan. 29, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 104.) Sec. 2 of this act amends sec. 8 (see No. 616, § 8) of the act referred to in the title, but only as relates to fees.

<sup>2</sup> See No. 616, § 12, *supra*.

**No. 619.—AN ACT TO AMEND AN ACT ENTITLED AN ACT TO REGULATE MARRIAGES.<sup>1</sup>**

§ 1. **Miscogeneration Not Prohibited.**—SECTION 1. *Be it enacted, etc.*, That the third clause of section second<sup>2</sup> of the act entitled "An act to regulate marriages, approved January 20, 1866," be stricken out.

<sup>1</sup> Approved Jan. 23, 1868. (See First Bien. Sess. 1868-69, p. 47.)

<sup>2</sup> See No. 616, § 2, *supra*.

**No 620.—CHAPTER CLXXXII—MARRIAGE.<sup>1</sup>**

§ 1. **A Civil Contract—Who Capable of.**—SEC. 2380. Marriage is a civil contract which may be entered into by males of the age of twenty-one years, and females of the age of eighteen years, who are otherwise capable.

<sup>1</sup> Approved Dec. 7 1881. (See Code 1881, p. 411.) For repealing clause and date in effect see Nos. 338, 339, 340.



§ 2. **What, are Voidable.**—SEC. 2381. When either party to a marriage shall be incapable of consenting thereto for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed.

§ 3. **Who May Solemnize.**—SEC. 2382. Marriage may be solemnized according to the ritual or ceremonies of any religious denomination, or by any regularly ordained and authorized minister or priest of any church or religious denomination in this Territory and by any justice or judge of a district or probate court anywhere within the Territory, and by any justice of the peace within their respective counties.

§ 4. **What Parties to, Shall Declare.**—SEC. 2383. In the solemnization of marriage no particular form is required except that the parties thereto shall assent or declare in the presence of the minister, priest or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be husband and wife.

§ 5. **Certificate of.**—SEC. 2384. The person solemnizing a marriage shall give to each of the parties thereto, if required, a certificate thereof specifying therein the names and residence of the parties and of at least two witnesses present at the time and place of such marriage, and the date of the license thereof, and by whom issued.

§ 6. **Certificate to be Filed With Probate Judge.**—SEC. 2385. A person solemnizing a marriage shall, within three months thereafter, make and deliver to the judge of the probate court of the county where the marriage took place a certificate containing the particulars specified in the last section, which said certificate may be in the following form:

TERRITORY OF WASHINGTON, COUNTY OF \_\_\_\_\_

This is to certify that the undersigned, a \_\_\_\_\_ by authority of a license bearing date \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, and issued by the county auditor of the county of \_\_\_\_\_, did on the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, at the house of \_\_\_\_\_, in the county and Territory aforesaid, join in lawful wedlock, A. B., of the county of \_\_\_\_\_, of the \_\_\_\_\_, and C. D., of the county of \_\_\_\_\_, of the \_\_\_\_\_, with their mutual assent, in the presence of F. H. and E. G., witnesses.

Witness my hand.

§ 7. **Record of Certificate.**—SEC. 2386. The judge of the probate court shall file such certificate, and record the same in the record of marriages, and the legal fee therefor shall be one dollar, to be paid by the person solemnizing the marriage, who shall be entitled to demand and receive the same from the parties before the marriage.

§ 8. **Want of Authority to Solemnize Not to Affect, if Intent Bona Fide—Legitimation of Illegitimates.**—SEC. 2388. A marriage solemnized before any person professing to be a minister or a priest of any religious denomination in this Territory, or professing to be an authorized officer thereof, is not void, nor shall the validity thereof be in any way affected on account of any want of power or authority in such person, if such marriage be consummated with a belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. Illegitimate children become legitimate by the subsequent marriage of their parents with each other.

§ 9. **Established Religious Form of, Valid.**—SEC. 2390. All marriages to which there are no legal impediments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid, and a certificate containing the particulars specified in sections 2384 and 2385, shall be made and filed for record by the person or persons presiding or officiating in or recording the proceedings of such religious organization or congregation, in the manner and with like effect as in ordinary cases.

§ 10. **License Necessary.**—SEC. 2890. Before any persons can be joined in marriage, they shall procure a license from the county auditor, authorizing any person or religious organization or congregation to join together the persons therein named as husband and wife.

§ 11. **If Female Infant, Written Consent Necessary Before License Shall Issue: Exception.**—SEC. 2891. Such license shall not issue without the written consent of the father, mother or other guardian of the person for whom the license is required, in cases when such person is a female under eighteen years of age or a male under twenty-one years of age, and the officer granting the license shall be satisfied that said persons are over that age before he grants such license without such written consent.

§ 12. **Affidavit for License.**—SEC. 2892. Before the license issues, the applicant therefor shall file with the auditor an affidavit of some credible person other than the parties seeking the license, showing the facts specified in the last section, or any of them that may be necessary to be shown in the particular case, except the consent of the parents or guardian, and such affidavit shall be sufficient authority to the county auditor, so far as such facts are concerned, for issuing the license.

§ 13. **Disposition and Record of License.**—SEC. 2893. The person solemnizing the marriage is authorized to retain in his possession the license, but the county auditor who issues the same, before delivering it, shall enter in his marriage record a memorandum of the names of the parties, the consent of the parents or guardian, if any, and the name of the affiant and the substance of the affidavit upon which said license issued, and the date of such license.

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#### No. 621.—AN ACT TO AMEND SECTION 2882 OF THE CODE.<sup>1</sup>

§ 1. **Who May Solemnize.**—SECTION 1. *Be it enacted, etc.* That section 2882<sup>2</sup> of the Code of Washington be amended to read as follows: "Marriage may be solemnized according to the ritual or ceremonies of any religious denomination, or by any minister or priest of any church or religious denomination in this Territory, and by any justice or judge of the district or probate court anywhere within the Territory, and by any justice of the peace within their respective counties."

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<sup>1</sup>Approved Nov. 26, 1883. (See Ninth Bien. Sess. 1883, p. 43.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup>See No. 620, § 3, *supra*.



## TITLE XVIII.—MARRIED PERSONS.

## CHAPTER I.—DOWER AND CURTESY.

**No. 622.—AN ACT RELATIVE TO ESTATES IN DOWER AND BY THE CURTESY.<sup>1</sup>**

§ 1. **Widow Entitled to Dower—Definition of.**—SECTION 1. *Be it enacted, etc.,* That the widow of every deceased person shall be entitled to dower, for the use during her natural life of one-third part of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage, unless she is lawfully barred thereof.

§ 2. **In What Case, May Select Dower—Proceedings to Recover.**—SEC. 2. If a husband seized of an estate of inheritance in lands, exchange them for other lands, his widow shall not have a dower of both, but shall make her election to be endowed of the lands given or of those taken in exchange; and if such election be not evinced by commencement of proceedings to recover her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

§ 3. **Effect of Mortgage of Inheritance Before Marriage.**—SEC. 3. When a person seized of an estate of inheritance in lands shall have executed a mortgage of such estate before marriage, his widow shall be entitled to dower out of the lands mortgaged as against every person except the mortgagee and those claiming under him.

§ 4. **Effect of Mortgage for Purchase Money During Coverture.**—SEC. 4. When a husband shall purchase lands during coverture and shall at the same time mortgage his estate in such lands to secure the payment of purchase money, his widow shall not be entitled to dower out of such lands as against the mortgagee or those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to dower as against all other persons.

§ 5. **In Case of Sale of Mortgaged Premises, Dower in Surplus.**—SEC. 5. When, in either of the cases mentioned in the last two preceding sections, or in case of a mortgage in which she shall have joined with her husband, the mortgagee or those claiming under him shall, after the death of the husband, cause the mortgaged premises to be sold by virtue of such mortgage, and any surplus that shall remain after payment of the moneys due thereon and the costs and charges of the sale, such widow shall be entitled to the interest or income of one-third part of such surplus for her life as dower.

§ 6. **Effect of Satisfaction of Mortgage.**—SEC. 6. If, in either of the cases above specified, the heirs or other person claiming under the husband shall pay and satisfy the mortgage, the amount so paid shall be deducted from the value of the land, and the widow shall have set out to her, for her dower in the mortgaged lands, the value of one-third of the residue after such deduction.

§ 7. **Dower in Lands Aliened During Husband's Lifetime: How Estimated.**—SEC. 7. When a widow shall be entitled to dower out of any lands which shall have been aliened by the husband in his lifetime, and

<sup>1</sup> Passed Jan. 30, 1864. (See Eleventh Reg. Sess. 1863-64, p. 6.) All conflicting acts or parts of acts repealed. In effect from date.

such lands shall have been enhanced in value after the alienation, such lands shall be estimated in setting out the widow's dower according to their value at the time when they were so aliened.

**§ 8. Assignment of Dower.**—SEC. 8. When a widow is entitled to dower in the lands of which her husband died seized, and her right to dower is not disputed by the heirs or devisees, or any person claiming under them, or either of them, it may be assigned to her, in whatever counties the lands may lie, by the judge of probate for the county in which the estate of the husband is settled, upon the application of the widow or any other person interested in the lands; notice of which application shall be given to such heirs, devisees or other persons, in such manner as the judge of probate shall direct.

**§ 9. Commissioners to be Appointed.**—SEC. 9. For the purpose of assigning such dower the judge of probate shall issue his warrant to three discreet and disinterested persons, authorizing and requiring them to set off the dower by metes and bounds, when it can be done without injury to the whole estate.

**§ 10. Duty of Commissioners—Report and Confirmation.**—SEC. 10. The commissioners shall be sworn before a judge or justice of the peace to the faithful discharge of their duties, and shall, as soon as may be, set off the dower according to the command of such warrant, and make return of their doings, with an account of their charges and expenses, in writing, to the probate court; and the same being accepted and recorded, and an attested copy thereof filed in the office of the register of deeds of the county where the lands are situated, the dower shall remain fixed and certain unless such confirmation be set aside or reversed on appeal; and one-half of the costs of such proceedings shall be paid by the widow and one half by the adverse party.

**§ 11. If Estate Indivisible, Dower in Rents, etc.**—SEC. 11. When the estate out of which dower is to be assigned consists of a mill or other tenement which cannot be divided without damage to the whole, and in all cases where the estate cannot be divided by metes and bounds, the dower may be assigned of the rents, issues and profits, to be had and received by the widow as a tenant in common with the owners of the estate.

**§ 12. Widow and Heirs May Occupy Premises.**—SEC. 12. When a widow is entitled to dower in the lands of which her husband died seized, she may continue to occupy the same with the children or other heirs of the deceased, or may receive one-third part of the rents, issues and profits thereof so long as the heirs, or others interested, do not object, without having the dower assigned.

**§ 13. How Widow May Convey Her Dower.**—SEC. 13. A married woman, residing within this Territory, may have her right of dower in any estate conveyed by her husband, or by his guardian if he be a minor, by joining in the deed of conveyance, and acknowledging the same, or by joining with her husband in a subsequent deed, acknowledged in like manner.

**§ 14. How Dower Barred.**—SEC. 14. A woman may also be barred of her dower in all the lands of her husband by a jointure settled on her with her assent before the marriage: *Provided*, Such jointure consists of a freehold estate on lands for the life of the wife at least, to take effect in possession or profit immediately on the death of the husband.

**§ 15. How Assent to Bar, Expressed.**—SEC. 15. Such assent shall be expressed if the woman be of full age, by her becoming a party to the conveyance by which it is settled, and if she be under age, by her joining with her father or guardian in such conveyance.

**§ 16. Any Provision in Lieu of Dower, if Assented to, Shall Bar.**—SEC. 16. Any pecuniary provision that shall be made for the benefit of an



intended wife, and in lieu of dower, shall, if assented to as provided in the preceding section, bar her right of dower in all the lands of her husband.

**§ 17. Widow May Elect Between Jointure and Dower.**—SEC. 17. If any such jointure or pecuniary provision be made before marriage, and without the assent of the intended wife, or if it be made after marriage, she shall make her election after the death of her husband, whether she will take such jointure or pecuniary provision, or be endowed of the lands of her husband, but she shall not be entitled to both.

**§ 18. May Elect Between Dower and Devise.**—SEC. 18. If any lands be devised to a woman, or other provisions be made for her in the will of her husband, she shall make her election whether she will take the lands so devised or the provisions so made, or whether she will be endowed of the lands of her husband; but she shall not be entitled to both unless it plainly appears by the will to have been so intended by the testator.

**§ 19. Limitation of Election.**—SEC. 19. When a widow shall be entitled to an election, under either of the last two preceding sections, she shall be deemed to have elected to take such jointure, devise or other provision, unless, within a year after the death of her husband, she shall commence proceedings for the assignment or recovery of her dower.

**§ 20. If Woman Evicted, etc., May be Re-Endowed.**—SEC. 20. If a woman is lawfully evicted of lands assigned to her as dower or settled upon her as jointure, or is deprived of the provision made for her by will or otherwise, in lieu of dower, she may be endowed anew in like manner as if such assignment, jointure or other provision had not been made.

**§ 21. Alienage Nor Non-Residence Shall Bar Dower.**—SEC. 21. A woman being an alien shall not on that account be barred of her dower; and any woman residing out of the Territory shall be entitled to dower of the lands of her deceased husband lying in this Territory of which her husband died seized; and the same may be assigned to her or recovered by her in like manner as if she and her deceased husband had been residents within the Territory at the time of his death.

**§ 22. Woman Bound to Prevent Waste and Maintain Tenements, etc.**—SEC. 22. No woman who shall be endowed of any lands shall commit or suffer any waste on the same; but every woman so endowed shall maintain the houses and tenements with the fences and appurtenances in good repair, and shall be liable to the person having the next immediate inheritance therein for all damages occasioned by any waste committed or suffered by her.

**§ 23. Widow May Occupy Dwelling, Without Rent, One Year.**—SEC. 23. A widow may remain in the dwelling house of her husband one year after his death, without being chargeable with rent therefor, and shall have her reasonable sustenance out of the estate for one year.

**§ 24. If Dower Withheld, May Recover Damages.**—SEC. 24. Whenever, in any action brought for the purpose, a widow shall recover her dower in lands in which her husband shall have died seized, she shall be entitled also to recover damages for the withholding of such dower.

**§ 25. Of What Damages Shall Consist.**—SEC. 25. Such damages shall be one-third part of the annual value of the mesne profits of the lands in which she shall so recover her dower, to be estimated in a suit against the heirs of her husband from the time of his death, and in suits against other persons from the time of her demanding her dower of such persons.

**§ 26. No Damages for Improvements After Husband's Death.**—SEC. 26. Such damages shall not be estimated for the use of any permanent improvements made after the death of her husband by his heirs or by any other person claiming title to such lands.

**§ 27. If Lands Alienated, How Damages Assessed.**—SEC. 27. When a widow shall recover her dower in any lands alienated by the heirs of

her husband, she shall be entitled to recover of such heir in a civil action her damages for withholding such dower from the time of the death of her husband to the time of the alienation by the heir, not exceeding six years in the whole; and the amount which she shall be entitled to recover from such heir shall be deducted from the amount she would otherwise be entitled to recover from such grantee, and any amount recovered as damages from such grantee shall be deducted from the sum she would otherwise be entitled to recover from such heir.

§ 28. **Widow's Acceptance of Dower Shall Bar Further Claim.**—SEC. 28. When the widow shall have accepted an assignment of dower in satisfaction of her claim upon all the lands of her husband, it shall be a bar to any further claim of dower against the heir of such husband, or any grantee of such heir, or any grantee of such husband, unless such widow shall have been lawfully evicted of the lands so assigned to her as aforesaid.

§ 29. **Heir Shall Have Action Against Widow, for Dower Fraudulently Recovered**—SEC. 29. When a widow not having right to dower shall, during the infancy of the heirs of her husband, or any of them, or of any person entitled to the lands, recover dower by the default or collusion of the guardian of such infant heir or other person, such heir or other person so entitled shall not be prejudiced thereby; but when he comes of full age, he shall have an action against such widow to recover the lands so wrongfully awarded for dower.

§ 30. **Estate by Curtesy.**—SEC. 30. When any man and his wife shall be seized in her right of any estate of inheritance in lands, the husband shall, on the death of his wife, hold the lands for his life as tenant thereof by curtesy. *Provided*, That if the wife at her death shall leave issue by any former husband to whom the estate might descend, such issue shall take the same, discharged from the right of the surviving husband to hold the same as tenant by the curtesy.

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## CHAPTER II.—COMMUNITY PROPERTY.

### No. 623.—AN ACT DEFINING THE RIGHTS OF HUSBAND AND WIFE.<sup>1</sup>

§ 1. **Separate Property Defined.**—SECTION 1. *Be it enacted, etc.*, That all property, both real and personal, of the wife owned by her before marriage, and that acquired afterward by gift, bequest, devise or descent, shall be her separate property, and all property, both real and personal, owned by the husband before marriage, and that acquired by him afterward by gift, bequest, devise, or descent shall be his separate property.

§ 2. **Community Property Defined.**—SEC. 2. All property acquired after the marriage by either husband or wife,<sup>2</sup> except such as may be acquired by gift, bequest, devise, or descent, shall be common property.

§ 3. **Inventory of Wife's Separate Property—Supplemental Inventories.**—SEC. 3. A full and complete inventory of the separate property of the wife, exclusive of money in specie, shall be made out and signed by the wife, acknowledged or proved in the manner required by law for the acknowledgment or proof of a conveyance of land, and recorded in

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 318.)

<sup>2</sup> See No. 626, *infra*.



the office of the auditor of the county in which the parties reside, and from time to time thereafter a further or supplemental inventory shall be made out, signed, acknowledged or proved and recorded in like manner, of all other separate property afterward acquired by the wife, excepting money whilst in specie and unconverted, and the rents and profits of her separate property included in the original or any subsequent inventory, if the same be money, so long as it shall remain in specie and unconverted.

**§ 4. Inventory to be Recorded in all Counties Where Property Situated.**—SEC. 4. If there be included in any such inventory any real estate lying in other counties, such inventory shall also be recorded in such counties.

**§ 5. Filing of Inventory Notice of Title—Exemption and Waiver.**—SEC. 5. The filing of any such inventory in the auditor's office shall be notice of the title of the wife, and all property belonging to her included in the inventory, as well as all money in specie not so included, shall be exempt from seizure on execution for the debts of her husband; and she shall be deemed to have waived the exemption from such seizure on execution of all property belonging to her not included in any such inventory, other than money in specie.

**§ 6. Husband Shall Manage Wife's Separate Property—Limitation of His Powers.**—SEC. 6. The husband shall have the management and control of the separate property of the wife during the continuance of the marriage, but no alienation, sale or conveyance of the real property of the wife or any part thereof, or any right, title or interest therein, and no contract for the alienation, sale or conveyance of the same, or any part thereof, and no lien or incumbrance created thereon, shall be valid for any purpose unless the same be made by an instrument in writing executed by the husband and wife, and acknowledged by her as provided for in the acts concerning conveyances in case of the conveyance of her separate real estate. \* \* \*

**§ 7. Wife's Sale for Husband's Benefit, Deemed Gift.**—SEC. 7. When any sale shall be made by the wife of any of her separate property for the benefit of her husband, or when he shall have used the proceeds of such sale with her consent, in writing, it shall be deemed a gift, and neither she nor those claiming under her shall have any right to recover the same.

**§ 8. If Husband Mismanages Estate, Trustee for Wife May be Appointed.**—SEC. 8. If the wife has just cause to apprehend that her husband has mismanaged or wasted, or will mismanage or waste, her separate property, she, or any other person in her behalf, may apply to the district court for the appointment of a trustee to take charge of and manage her separate estate, such trustee may, for good cause shown, be from time to time removed by the court and another appointed in his place. Before entering upon the discharge of his trust, he shall execute a bond, with sufficient surety or sureties, to be approved by the court, for the proper performance of his duties. In case of the appointment of a trustee for the wife, he shall account for and pay over to the husband and wife, or either of them, the income and profits of the wife's estate in such manner and proportion as the court may direct.

**§ 9. Husband to Manage and Dispose of Community Property.**—SEC. 9. The husband shall have the entire management and control of the common property, with the like absolute power of disposition as of his own separate estate. When it shall be provided by the terms of the instrument whereby any property may have been bequeathed, devised, or given to the wife, that the rents and profits thereof shall be applied to her sole and separate use, the entire management and control of the rents and profits of such property shall belong to the wife.



**§ 10. Husband's Separate Property Not Liable for Wife's Debts Incurred Before Marriage.**—SEC. 10. The separate property of the husband shall not be liable for the debts of the wife contracted before the marriage, but the separate property of the wife shall be and continue liable for all such debts.

**§ 11. This Act to Extend to All Marriages Hereafter Contracted—Exception.**—SEC. 11. In every marriage hereafter contracted in this Territory, the rights of husband and wife shall be governed by this act, unless there is a marriage contract containing stipulations contrary thereto.

**§ 12. Also to All Property Hereafter Acquired; Exception.**—SEC. 12. The rights of husband and wife married in this Territory prior to the passage of this act, or married out of this Territory, but who shall reside and acquire property herein, shall also be determined by the provisions of this act, with respect to such property as shall be hereafter acquired, unless so far as such provision may be in conflict with the stipulations of any marriage contract.

**§ 13. Marriage Contracts: How Executed.**—SEC. 13. All marriage contracts shall be in writing, and executed and acknowledged or proved in like manner as a conveyance of land is required to be executed and acknowledged or proved.

**§ 14. Marriage Contract to be Recorded.**—SEC. 14. When a marriage contract shall be acknowledged or proved, it shall be recorded in the office of the auditor of the county in which the parties reside, and also in the office of the auditor of every county in which any real estate may be situated which is conveyed or affected by such marriage contract.

**§ 15. Record of Marriage Contract Imparts Notice.**—SEC. 15. When any marriage contract is deposited in the auditor's office for record, it shall, as to all property affected thereby in the county where the same is deposited, impart full notice to all persons of the contents thereof.

**§ 16. Marriage Contract Not Valid Unless Recorded.**—SEC. 16. No marriage contract shall be valid, or affect any property, except between the parties thereto, until it shall be deposited for record with the auditor of the county where the parties reside; and if it relates to real estate in other counties, with the auditor of the county where the parties reside; and if it relates to real estate in other counties, with the auditors of the county wherein such property is situated.

**§ 17. Minor May Make Marriage Contract if Assent Obtained.**—SEC. 17. A minor capable of contracting matrimony may enter into a marriage contract, and the same shall be valid as if he were of full age, provided it be assented to in writing by the person or persons whose consent is necessary to his marriage.

**§ 18. Contract Cannot be Altered After Marriage.**—SEC. 18. A marriage contract may be altered at any time before the celebration of marriage, but not afterward.

**§ 19. Marriage Contract: What Agreements in, Invalid.**—SEC. 19. The parties to any marriage contract shall enter into no agreement the object of which shall be to alter the legal order of descent, either with respect to themselves, in what concerns the inheritance of their children or posterity, or with respect to their children between themselves, nor deteriorate from the rights given by law to the husband as the head of the family, or to the surviving husband or wife as the guardian of their children.

**§ 20. Certain Stipulations Invalid.**—SEC. 20. No stipulation of any marriage contract shall be valid which shall derogate from the rights given by law to the husband over the persons of his wife and children, or which belong to the husband as the head of the family, or to the surviving husband or wife as the guardian of their children.

§ 21. **Powers of Attorney: How Executed.**—SEC. 21. A married woman may make and execute powers of attorney for the sale, conveyance or incumbrance of her real or personal estate, provided her husband joins in the execution of the instrument, and the same be acknowledged and certified in the manner provided by the law for the conveyance of her real estate.

§ 22. **How Conveyance Under Power, Executed.**—SEC. 22. Any conveyance executed under and by virtue of such power of attorney shall be executed, acknowledged and certified in the same manner as if the persons making such powers of attorney were unmarried.

§ 23. **Revocation of Power.**—SEC. 23. A married woman shall have the right to revoke such power of attorney by any revocation thereof made and executed by her, and acknowledged and certified in the manner that conveyances by married women are required to be acknowledged and certified, and it shall not be necessary for the validity of such revocation that her husband shall join in the execution thereof.

§ 24. **Validity of Powers Heretofore Executed—Rights of Third Persons.**—SEC. 24. All powers of attorney heretofore made and executed by any married woman with her husband, and acknowledged and certified in the manner provided in section twenty-four\* of this act, and all conveyances heretofore and hereafter executed under and by virtue of such powers of attorney, and acknowledged and certified in the manner provided in section twenty-two of this act, shall be valid and binding: *Provided*, That no rights already vested in third persons shall be affected by anything in this section contained.

\* See §§ 21 and 22.

**No. 624.—AN ACT DEFINING THE RIGHTS OF PERSONS AND PROPERTY AS AFFECTED BY MARRIAGE.<sup>1</sup>**

§ 1. **Separate Property Defined.**—SECTION 1. *Be it enacted, etc.*, That all property owned by the husband or wife at the time of the marriage, and all property acquired by either of them during the marriage, by gift, devise, descent, bequest or inheritance, and all property purchased or credited with the separate funds of either during the marriage and designated as separate property, as per deed or inventory in accordance with the provisions of this act, shall be the separate property of each, respectively, the same as though no marriage existed.

§ 2. **Community Property Defined.**—SEC. 2. All property acquired during the marriage by the joint labors of the husband and wife, or by their individual labors, together with all rents, profits, interest or proceeds of the separate property of both accruing during the marriage, shall be common property: *Provided*, That the rents, profits, interest and proceeds of the wife's separate property, which shall accrue during the marriage, together with her personal earnings, shall be her separate property when the same shall be necessary for the support of herself or children on account of the disability or failure of the husband to provide such support.

§ 3. **Wife's Separate Property Not Liable for Husband's Debts: Exception.**—SEC. 3. The separate property of the wife shall be exempt from seizure or execution for any debts of the husband, unless she shall join him in writing in the incurrence of the same, or shall become responsible for the same in writing after the incurrence of the debt.

§ 4. **In Whose Name Deed to Separate Property Shall be—Wife's Inventory.**—SEC. 4. The deed of any real estate which shall be purchased

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 67.) All conflicting acts or parts of acts repealed. In effect from date.

by the wife during the marriage for her own benefit, and with her own separate funds, and which shall not be intended by her to become common property, shall be in her own name; and she shall make out an inventory or inventories of all personal property purchased or created with her separate funds during the marriage, and the inventory or inventories shall be signed by herself and shall be witnessed by the husband, and shall be placed on record in the office of the auditor of the county in which she shall reside, and whenever she shall gain a residence in any other county of this Territory she shall, within six months after gaining such residence, file for record an inventory of her separate personal property in the office of the auditor of said county, and all property thus recorded shall be the wife's separate property; and all property acquired by her during the marriage, the deed or inventory of which shall not be recorded or filed for record in the county auditor's office, in her name, shall, for the purposes of this act, be common property, except only her wardrobe and personal ornaments, and money in specie and in paper currency. *Provided* That sixty days shall be allowed her for filing a deed or inventory of her separate property for record, during which time the property to be so recorded shall not be considered common property.

**§ 5. Effect of Inventory.**—SEC. 5. For the purpose of distinguishing all of her separate personal property owned by her before the marriage, and all acquired by gift, devise, descent, bequest or inheritance, from common property, the wife may file an inventory or inventories of all such property in the county auditor's office for record, and the inventory or inventories shall be signed by herself, and shall be witnessed by the husband, and such record shall be proof that the property is hers without requiring additional evidence, when the filing shall be just; and she may file, in like manner, an inventory or inventories of common property in which she shall own more than a half interest, and she shall clearly set forth, in connection therewith, the proportion the value her share of said property bears to the entire value of the property so recorded.

**§ 6. Husband's Inventory: Force and Effect of.**—SEC. 6. When the husband shall desire to preserve as separate property any real or personal estate acquired by him during the marriage, otherwise than by gift, devise, descent, bequest or inheritance, he shall specify it in an inventory or inventories, which shall be signed by himself and shall be witnessed by the wife, and shall be recorded in the office of the auditor of the county in which he shall have his residence, and when he shall gain a residence in any other county of this Territory, he shall, within six months after gaining such residence, record an inventory of said property in the auditor's office of said county in like manner, and all such property shall be his separate property, but all such property not so recorded shall be common property; and for the purpose of distinguishing all of his separate personal property from the common property, he may proceed as the wife is required to proceed in section five of this act, for a like purpose, and any such record of his separate personal property shall be proof of his ownership of said property, without additional evidence, when the filing shall be just; and he may, in like manner, record an inventory or inventories of common property in which he shall have more than a half interest, and he shall clearly set forth in connection therewith the value which his share bears to the entire value of said property, and he shall in all cases be allowed the same time for filing any deed or inventory of record that is allowed the wife, during which time the property to be recorded shall not be considered common property.

**§ 7. Effect of Husband not Witnessing Wife's Inventory.**—SEC. 7. When, on account of refusal, or of absence, or physical or mental disability of the husband, he shall not witness any inventory made out by the wife of her separate property, or of her interest in common property, she may procure two disinterested witnesses who shall know the property to be



her separate property, in place of the husband, or she may be allowed to attest under oath to the correctness of the inventory; and the husband shall be entitled to like privileges when, on account of refusal or any like disabilities of the wife, she shall not be able to witness any inventory of property which shall be made out by him for record. On ceasing to own any property recorded in the county auditor's office, the filor shall order its erasure from the inventory as soon as practicable thereafter.

**§ 8. Gift From Husband to Wife, Valid: Exception.**—SEC. 8. A gift of real estate from the husband to the wife shall be valid and binding, except as against existing creditors, when the deed therefor shall clearly set forth the fact that the property so conveyed shall be the wife's and her heirs' forever; but a deed of property from the husband to the wife, to be held by the wife in trust for the husband, shall not be binding for any purpose whatever; \* \* \*

**§ 9. All Property Liable for Existing Debts.**—SEC. 9. All personal and real estate which shall be transferred from the wife to the husband or from the husband to the wife, by gift or sale, shall continue liable for all indebtedness for which it shall be liable at the time of the transfer thereof, notwithstanding its registry in the auditor's office as the separate property of the transferee.

**§ 10. Wife's Separate Property Solely Liable for Her Debts Contracted Before Marriage.**—SEC. 10. The separate property of the wife and her share of the common property shall be liable for all valid indebtedness of the wife contracted before the marriage, but the separate property of the husband shall not be liable for such indebtedness.

**§ 11. Husband's Separate Property Not Liable for Wife's Debts During Coverture: Exception.**—SEC. 11. The separate property of the husband shall not be liable for any indebtedness of the wife which shall be contracted during the marriage, unless he shall join her in the incurrence of the same in writing, or shall become responsible for the same in writing after its incurrence, except such indebtedness shall be incurred for the necessary comforts or welfare of the family; and when so incurred, the separate property of both husband and wife shall be liable when there shall not be sufficient available common property to satisfy such indebtedness and cover costs.

**§ 12. Husband Shall Manage Community Property—Limitation of His Powers.**—SEC. 12. The husband shall have the management of all the common property, but shall have no right to sell or encumber real estate except he shall be joined in the sale or encumbrance by the wife; \* \* \*

**§ 13. If Husband Mismanage, etc., Estate, Wife May Require Bonds, etc.**—SEC. 13. When the common property shall have been wasted, squandered or mismanaged, or when there shall be danger that it will be wasted, squandered or mismanaged by the husband, the wife may at any time file a complaint with the judge of the district court, alleging such waste, squandering or mismanagement, and the judge shall, on becoming satisfied of the justness of the complaint, order a hearing of the case at chambers by citing the husband and wife to appear before him at as early an hour as practicable, and shall, if he thinks it necessary, require the husband to give good and sufficient security for a proper management of the wife's share of the common property; and when the husband shall fail to give good and sufficient security, the judge may arrest, by a restraining order, any sale or waste of the common property until the husband shall give the required security, or until the court shall become satisfied that a necessity for such security no longer exists, and when the husband shall fail to give the requisite security within six months after being required so to do, the court shall order and decree so much of the common property to be the wife's separate property as shall be just and equitable, and the remainder shall be decreed by the court to be the husband's separate prop-

erty. In case the court shall be satisfied that the husband has wasted or squandered or mismanaged any portion of the common property, he may order and decree such portion of the remaining common property to be the separate property of the wife as may be just and equitable, and in case there shall not be an amount of common property, the court may order and decree such portions of the separate property of the husband to be the separate property of the wife as may be just and equitable, and such order and decree shall be duly entered on record in the court.

**§ 14. Husband May Manage His Separate Property—May Alien Without Wife Joining.**—SEC. 14. The husband shall have the sole control and management of his own separate property, and need not be joined by the wife in any sale, transfer or encumbrance thereof.

**§ 15. Wife May Manage Her Separate Property—May Alien Without Husband Joining: Exception.**—SEC. 15. The wife shall have the sole control and management of her own separate property, and need not be joined by the husband in any sale, transfer or encumbrance thereof: *Provided*, That when any of the wife's separate property shall have been obtained by the wife from the husband as a gift, in whole or in part, it shall be necessary for the husband to join the wife in any sale, transfer or encumbrance of the property thus conferred upon her as a gift, as well as in the execution of any power of attorney for such purposes; otherwise the transaction shall be void; and evidence of the gift shall appear in the deed or recorded inventory of the property so obtained.

**§ 16. Community Property Not Liable for Wife's Debts During Coverture in Excess of Her Community Interest: Exception.**—SEC. 16. The common property shall not be liable for any indebtedness which shall be created by the wife during the marriage, the aggregate of which shall exceed her share of the common property, unless the husband shall join her in writing, as per order, note of hand, due bill, etc., in the incurrence of such indebtedness, except the indebtedness shall have been contracted for ordinary family supplies or comforts of life, or to meet unavoidable emergencies.

**§ 17. Extent of Liability for Debts Incurred Without Knowledge, etc., of Husband.**—SEC. 17. When the wife shall incur indebtedness without the knowledge or assent of the husband, or against his special remonstrance with the person or firm who shall give her credit, and when the indebtedness shall be for any other purpose than to procure ordinary supplies or advantages necessary for the comfort or welfare of the family, and when to satisfy any such indebtedness, common property shall be sold upon execution, the amount of all such indebtedness, together with the amount of all actual costs which shall accrue in the collection of the same, shall constitute a debt against the wife's share of the common property, unless the husband shall by will, or by an instrument in writing signed by two disinterested witnesses, signify that he has waived said debt against her common property.

**§ 18. If Husband's Interest Sold for Such Debt, How Reimbursed.**—SEC. 18. The record of the court ordering the sale of common property for the wife's extraordinary indebtedness, or a certified copy of the record, shall be had in proof of the debt at the time the deduction shall be made; and when the husband shall die before the wife, the amount of the debt shall be taken from the widow's half of the common property, and shall go to the husband's heirs; and when the wife shall die before the husband, the amount of the debt shall be deducted from the wife's half of the common property, and shall go to the husband; but the separate property of the wife shall be first liable for all that class of indebtedness specified in section 17 of this act.

**§ 19. Limitation Upon Sale.**—SEC. 19. When real estate, common property, shall be sold for indebtedness of the wife or the husband only,



no more shall be sold than shall be necessary to satisfy the indebtedness and cover costs, except the other owner shall consent to the sale of a greater portion or of the whole thereof.

**§ 20. Wife's Sale for Husband's Benefit, Deemed Gift.**—SEC. 30. When any sale shall be made by the wife of her separate property for the benefit of the husband, or when she shall have used the proceeds of any sale for his benefit, with her consent in writing, it shall be deemed a gift, and neither she nor those claiming under her shall have any right to recover the same; but the wife shall have no power to convey to the husband, by deed, any real estate without having first received a full and satisfactory equivalent for the same in money or property, or by mortgage deed on real estate, and she shall clearly state this fact to the notary public before whom the deed shall be acknowledged, and she shall be questioned by him concerning this matter separate and apart from the husband.

**§ 21. Husband May Act as Agent, etc., for Wife.**—SEC. 21. The husband may act for the wife in the capacity of agent, trustee or attorney, on being duly appointed, with all the responsibilities and liabilities attending his trust that would attach to any other person acting in the same capacity.

**§ 22. Wife's Interest in Partnership Property.**—SEC. 22. The common property being partnership property, the wife's share shall be one-half thereof and shall be hers and her heirs' forever, and her share of the common property may be increased so as to be more than one-half, by the wife's compliance with the provisions of section five of this act.

**§ 23. Dower and Curtesy Abolished.**—SEC. 23. Neither dower or curtesy shall hereafter accrue.

**§ 24. Plural Nouns.**—SEC. 24. For the purposes of this act a plural noun or pronoun shall be deemed singular when the sense shall justify such a rendering.

**§ 25. What Persons Affected by this Act.**—SEC. 25. The rights of all married persons now living in this Territory, and of all who shall hereafter live in this Territory, shall be governed by this act.

**§ 26. Rights of Widow Cannot be Disturbed by Will.**—SEC. 26. The husband shall not by will deprive the widow of any rights under this act, and when provision is made by will for the widow she shall be entitled to elect to receive the same, or claim her rights according to the provisions of this act.

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**No. 625.—AN ACT TO REPEAL AN ACT ENTITLED AN ACT DEFINING THE RIGHTS OF PERSONS AND PROPERTY AS AFFECTED BY MARRIAGE, PASSED AT THE LAST SESSION OF THE LEGISLATIVE ASSEMBLY, AND APPROVED BY THE GOVERNOR NOVEMBER 29, 1871.<sup>1</sup>**

SECTION 1. *Be it enacted, etc.,* That the act entitled An act defining the rights of persons and property as affected by marriage, passed by the house of representatives November 22, 1871; by the council November 28, 1871, and approved by the governor November 29, 1871,<sup>2</sup> be and the same is hereby repealed.

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<sup>1</sup> Approved Nov. 5, 1873. (See Fourth Bien. Sess. 1873, p. 486.) In effect from date.

<sup>2</sup> See No. 624, *supra*.

**No. 626.—AN ACT DEFINING THE RIGHTS OF HUSBAND AND WIFE.<sup>1</sup>**

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<sup>1</sup> Approved Nov. 14, 1873. (See Fourth Bien. Sess. 1873, p. 450.) This No. is verbatim as No. 623, *supra*, except § 2 of said No. at \* instead of "husband or wife" read "husband and wife." In effect from date.

**No. 627.—AN ACT TO ESTABLISH AND PROTECT THE RIGHTS OF MARRIED WOMEN.<sup>1</sup>**

**§ 1. Civil Disabilities Removed.**—SECTION 1. All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are hereby abolished: *Provided*, That this shall not confer the right to vote or hold office upon the wife, except as is otherwise provided by law; and for any unjust usurpation of her natural or property rights she shall have the same right to appeal, in her own individual name, to the courts of law or equity for redress and protection, that the husband has.

**§ 2. Authority of Parents Over Children and Their Estate, Equal.**—SEC. 2. Henceforth the rights and the responsibilities of the parents, in the absence of misconduct, shall be equal, and the mother shall be as fully entitled to the custody, control and earnings of the children as the father; and in case of the father's death, the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death.

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<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 151.) In effect from date. No enacting clause.

**No. 628.—AN ACT RELATING TO AND DEFINING THE PROPERTY RIGHTS OF HUSBAND AND WIFE.<sup>1</sup>**

**§ 1. Separate Property Defined.**—SECTION 1. *Be it enacted, etc.*, That all property of the wife, owned by her before marriage, and that acquired afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereof, is her separate property, and all property owned by the husband before marriage and that acquired by him afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereof, is his separate property.

**§ 2. Community Property Defined.**—SEC. 2. All other property acquired after marriage by either husband or wife, or both, is community property, except such as may be acquired as is provided in the first section of this act.

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**§ 3. Husband Shall Manage Wife's Separate Estate—Limitation of His Powers—Mechanic's Liens.**—SEC. 5. The husband shall have the management and control of the separate real property of the wife during the continuance of the marriage, but he has not power to sell or incumber or in any way dispose of the separate real estate of the wife, or any interest therein, without the wife joins with him in selling, incumbering or disposing of the same by executing with him a deed to that effect, and such deed must be acknowledged by her and her husband as provided in the acts concerning the acknowledgment of deeds: *Provided, however*, That all such separate real estate shall be subject to the liens of mechanics and others for labor and material furnished in erecting structures and improvements thereon as provided by law in other cases.

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**§ 4. Husband May Manage Community Property—Wife Must Join in Deed—Mechanic's Liens.**—SEC. 8. The husband has the management and control of the community real property, but he shall not sell, convey or incumber the community real estate unless the wife join with him in executing the deed or other instrument of conveyance by which the real

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 77.) In effect from date.

estate is sold, conveyed or incumbered, and such deed or other instrument of conveyance must be acknowledged by him and his wife as deeds of her separate estate are acknowledged: *Provided, however,* That all such community real estate shall be subject to the liens of mechanics and others, for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases.

**§ 5. Wife Must Join in Conveyance of Husband's Separate Property—Mechanic's Liens.**—SEC. 9. The husband has the absolute power of disposition of his separate personal property, but he shall not sell, convey or incumber his separate real estate unless the wife joins with him in executing the deed or other instrument of conveyance by which such real estate is sold, conveyed or incumbered, and such deed or other instrument of conveyance must be acknowledged by him and his wife as deeds of her separate estate are acknowledged: *Provided, however,* That all such separate real estate shall be subject to the liens of mechanics and others, for labor and material furnished in erecting structures and improvements thereon, as provided by law in other cases.

**§ 6. Husband Must Join in Conveyance of Wife's Separate Property.**—SEC. 10. The wife may, without the consent of her husband, sell or convey her separate personal property; but where her separate real property is to be conveyed or incumbered, the deed of conveyance or incumbrance shall be void unless her husband join with her in executing said deed, and the same is acknowledged as other deeds are required by law to be acknowledged.

**§ 7. Disposition of Separate Estate by Will.**—SEC. 11. A married woman may dispose of all her separate estate, by will, without the consent of her husband, and may alter or revoke the will in like manner as if she were single. Her will must be attested, witnessed and proved in like manner as all other wills. A husband may also dispose of his separate estate by will, and in addition thereto may in like manner dispose of one-half of the community estate.

**§ 8. Descent of Community Property Upon Death of Husband or Wife.**—SEC. 12. Upon the death of either husband or wife, one-half of the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts.

**§ 9. Rule of Descent, if Both Die Intestate.**—SEC. 13. In case no testamentary disposition shall have been made by the deceased husband or wife of his or her half of the community property, it shall descend equally to the legitimate issue of his, her or their bodies. If there be no issue of said deceased living, or none of their representatives living, then the said community property shall all pass to the survivors, subject to the community debts, and to the exclusion of collateral heirs, the family allowance and the charges and expenses of administration.

**§ 10. Wife's Earnings Not Liable for Husband's Debts.**—SEC. 14. The earnings of the wife are not liable for the debts of the husband.

**§ 11. Wife's Earnings Her Separate Property.**—SEC. 15. The earnings and accumulations of the wife and of her minor children living with her, or in her custody while she is living separate from her husband, are the separate property of the wife.

**§ 12. Husband's Separate Property Not Liable for Wife's Debts Before Marriage.**—SEC. 16. The separate property of the husband is not liable for the debts of the wife contracted before the marriage.

**§ 13. Wife's Separate Property Not Liable for Any of Husband's Debts.**—SEC. 17. The separate property of the wife is not liable for the debts of the husband, but is liable for her own debts contracted before or after marriage.



§ 14. **Dower and Curtesy Abolished.**—SEC. 18. No estate is allowed the husband as tenant by courtesy upon the death of his wife, nor is any estate in dower allotted to the wife upon the death of her husband.

§ 15. **Scope of This Act.**—SEC. 19. The property rights of husband and wife are hereafter to be governed by this act (unless there is a marriage settlement or post-nuptial agreement, as hereinafter provided, containing stipulations contrary thereto), any act to the contrary notwithstanding.

§ 16. **Marriage Contracts: How Executed.**—SEC. 20. All contracts for marriage settlements must be in writing, and executed and acknowledged or proved, in like manner as a grant of land is required to be executed and acknowledged or proved.

§ 17. **Marriage Contract to be Recorded.**—SEC. 21. When such contract is acknowledged or proved, it must be recorded in the office of the auditor of every county in which any real estate may be situated which is granted or affected by such contract.

§ 18. **Effect of Recording, or Failure to Record.**—SEC. 22. The recording or non-recording of all such settlements has a like effect as the recording or non-recording of a grant of real property.

§ 19. **Minor May Make Marriage Settlement if Assent Obtained.**—SEC. 23. A minor capable of contracting marriage may make a valid marriage settlement: *Provided*. It be assented to in writing by the person or persons whose consent is necessary to the marriage of such minor.

§ 20. **No Agreement to Change Rule of Descent, Valid.**—SEC. 24. The parties to any marriage settlement shall enter into no agreement, the object of which shall be to alter the legal order of descent, either with respect to themselves, in what concerns the inheritance of their children or posterity, or with respect to their children between themselves, nor derogate from the rights given by law to the husband, as the head of the family.

§ 21. **Lien of Judgment, etc.**—SEC. 25. Nothing in this act contained shall prevent the lien of a judgment or decree obtained against the husband, from attaching to the separate real estate of the husband and the community real estate, if the provisions of law now in force are complied with, as to the filing of such lien in the auditor's office within the time now fixed by law: *Provided*, That only one-half of the community real estate shall be liable for a debt contracted by the husband before marriage: *And, provided further*. That nothing in this act shall be so construed as to subject the homestead of husband and wife to such lien, save only to the same extent as now provided by law.

§ 22. **Homestead.**—SEC. 26. The husband cannot select a homestead from the separate property of the wife.

§ 23. **Husband May Make Gift to Wife.**—SEC. 27. The husband has the right, notwithstanding the provisions in this act, to give or otherwise convey to his wife, by direct conveyance, any right, title or interest that he may have in any property, and the wife is not required to acknowledge or execute any such conveyance, and she may show in any proceeding affecting such property that the same is a gift to her, notwithstanding the deed or other conveyance fails to express that it was a gift: *Provided*, That nothing herein contained shall prevent creditors of the husband, when such gift is made to defraud them, from setting such deed or conveyance aside and subjecting such property to other debts.

§ 24. **If Husband Mismanage Estate, Trustee May be Appointed.**—SEC. 28. If the wife has just cause to apprehend that her husband has mismanaged or wasted, or will mismanage or waste, her separate property, she may apply to the district court or judge thereof for the appointment of a trustee to take charge of and manage her separate estate. Such trustee may, for good cause shown, be from time to time removed by the

court or judge thereof and another appointed in his place. Before entering upon the discharge of his trust, he shall execute a bond with sufficient surety or sureties, to be approved by the court or judge thereof, for the proper performance of his duties. In case of the appointment of a trustee for the wife, he shall account for and pay over to the wife the income and profits of her estate; or the court, in its discretion, or the judge thereof, may, in place of a trustee, give to the wife full authority to take charge of and manage her own estate to the exclusion of her husband.

**§ 25. Husband and Wife May Make Agreement Relative to Disposition, etc., of Property.**—SEC. 29. Nothing contained in any of the provisions of this act, or in any law of this Territory, shall prevent the husband and wife from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by the husband and wife by the execution of an instrument in writing, under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be under the laws of the Territory, and the same may at any time thereafter be altered or amended in the same manner: *Provided, however,* That such agreement shall not derogate from the rights of creditors, nor be construed to curtail the powers of the district courts to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party.

**§ 26. This Act to be Liberally Construed.**—SEC. 30. The rule of common law that statutes in derogation thereof are to be strictly construed has no application to this act. This act establishes the law of this Territory respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object.

**§ 27. Not to be Retroactive.**—SEC. 31. This act shall not be construed to operate retrospectively, and any right established, accrued or accruing, or anything done prior to the time this act goes into effect, shall be governed by the law in force at the time such right was established or accrued.

**§ 28. Repealing Clause.**—SEC. 32. All acts and parts of acts in any manner conflicting with the provisions of this act, or on the subject-matter thereof, be and the same are hereby repealed

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#### No. 629.—CHAPTER CLXXXIII—PROPERTY RIGHTS OF MARRIED PERSONS.<sup>1</sup>

**§ 1. To Have the Same Rights as Unmarried Persons.**—SEC. 2396. Every married person shall hereafter have the same right and liberty to acquire, hold, enjoy and dispose of every species of property, and to sue and be sued, as if he or she were unmarried.

**§ 2. Burden of Proof.**—SEC. 2397. In every case where any question arises as to the good faith of any transaction between husband and wife, whether a transaction between them directly or by intervention of third person or persons, the burden of proof shall be upon the party asserting the good faith.

**§ 3. Civil Disabilities of Wife Removed.**—SEC. 2398. All laws which impose or recognize civil disabilities upon a wife which are not imposed or recognized as existing as to the husband, are hereby abolished, and for

<sup>1</sup> Approved Nov. 21, 1881. (See Code 1881, p. 413.) For repealing clause, date in effect, etc., see Nos. 338, 339, 340.



any unjust usurpation of her natural or property rights she shall have the same right to appeal, in her own individual name, to the courts of law or equity, for redress and protection that the husband has: *Provided, always*, That nothing in this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law.

**§ 4. Authority Over Children and Their Estate, Equal.**—SEC. 2399. Henceforth the rights and responsibilities of the parents, in the absence of misconduct, shall be equal, and the mother shall be as fully entitled to the custody, control and earnings of the children as the father, and in case of the father's death the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death.

**§ 5. Wife's Property Not Subject to Husband's Debts—Extent of Her Power to Manage, Convey, etc.**—SEC. 2400. The property and pecuniary rights of every married woman at the time of her marriage or afterwards, acquired by gift, devise or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of her husband, and she may manage, lease, sell, convey, encumber or devise by will such property to the same extent and in the same manner that her husband can property belonging to him.

**§ 6. Action by One to Recover Property From the Other May be Maintained.**—SEC. 2401. Should either husband or wife obtain possession or control of property belonging to the other, either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

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**§ 7. May Act as Attorney-in-Fact for Each Other.**—SEC. 2403. A husband or wife may constitute the other his or her attorney-in-fact to manage, control or dispose of his or her property, with the same power of revocation or substitution as could be exercised were they unmarried persons.

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**§ 8. Not Liable for Each Other's Debts Acquired Before Marriage.**—SEC. 2405. Neither husband or wife is liable for the debts or liabilities of the other incurred before marriage, nor for the separate debts of each other, nor is the rent or income of the separate property of either liable for the separate debts of the other.

**§ 9. Wife's Contract, etc., May be Enforced.**—SEC. 2406. Contracts may be made by a wife and liabilities incurred, and the same may be enforced by or against her to the same extent and in the same manner as if she were unmarried.

**§ 10. Certain Expenses Chargeable Upon Property of Both.**—SEC. 2407. The expenses of the family and the education of the children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately.

**§ 11. Husband's Property Owned Before Marriage or Acquired by Gift, etc., Not Liable for Wife's Debts—He May Convey Alone.**—SEC. 2408. Property and pecuniary rights owned by the husband before marriage, and that acquired by him afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his wife, and he may manage, lease, sell, convey, encumber or devise by will such property without the wife joining in such management, alienation or encumbrance, as fully and to the same effect as though he were unmarried.

**§ 12. Community Property Defined.**—SEC. 2409. Property not acquired or owned as prescribed in sections 2400 and 2408, acquired after marriage, by either husband or wife or both, is community property.

The husband shall have the management and control of community personal property, with a like power of disposition as he has of his separate personal property, except he shall not devise by will more than one-half thereof.

**§ 13. Husband to Manage Community Property—Limitation of His Powers—Mechanic's Lien.**—SEC. 2410. The husband has the management and control of the community real property, but he shall not sell, convey or encumber the community real estate unless the wife join with him in executing the deed or other instrument of conveyance by which the real estate is sold, conveyed or encumbered, and such deed or other instrument of conveyance must be acknowledged by him and his wife: *Provided, however,* That all such community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, to liens of judgments recovered for community debts, and to sale on execution issued thereon.

**§ 14. Descent of Community Property, Upon Death of Either.**—SEC. 2411. Upon the death of either husband or wife, one-half of the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts.

**§ 15. Rule of Descent, if Both Die Intestate.**—SEC. 2412. In case no testamentary disposition shall have been made by the deceased husband or wife of his or her half of the community property, it shall descend equally to the legitimate issue of his, her or their bodies. If there be no issue of said deceased living, or none of their representatives living, then the said community property shall all pass to the survivor, to the exclusion of collateral heirs, subject to the community debts, the family allowance and the charges and expenses of administration.

**§ 16. Wife's Earnings, Her Separate Property.**—SEC. 2413. The earnings and accumulations of the wife and of her minor children living with her or in her custody while she is living separate from her husband, are the separate property of the wife.

**§ 17. Dower and Curtesy Abolished.**—SEC. 2414. No estate is allowed the husband as tenant by curtesy, upon the death of his wife, nor is any estate in dower allotted to the wife, upon the death of her husband.

**§ 18. Homestead: How Selected.**—SEC. 2415. The husband cannot select a homestead from the separate property of the wife, nor the wife from the separate property of the husband, but either may select and hold a homestead from his or her separate property, and the husband may select a homestead from the community property. But if the husband neglect or refuse to select such homestead, then the wife may select the same: *Provided,* That but one homestead shall be selected or held by husband or wife, and it must embrace the dwelling house in which one or both of them reside.

**§ 19. May Agree as to Disposition of Community Property.**—SEC. 2416. Nothing contained in any of the provisions of this chapter, or in any law of this Territory, shall prevent the husband and wife from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by the husband and wife by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the Territory, and the same may at any time thereafter be altered or amended in the same manner: *Provided, however,* That such agreement shall not derogate from the right of creditors, nor be construed to curtail the powers of the district

court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party.

§ 20. **This Law to be Liberally Construed.**—SEC. 2417. The rule of common law, that statutes in derogation thereof are to be strictly construed, has no application to this chapter. This chapter establishes the law of this Territory respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object.

§ 21. **Not Retroactive.**—SEC. 2418. This chapter shall not be construed to operate retrospectively, and any right established, accrued or accruing, or in anything done prior to the time this chapter goes into effect, shall be governed by the law in force at the time such right was established or accrued.

**No. 630.—AN ACT RELATING TO THE CONVEYANCE OR OTHER DISPOSITION OF THE PROPERTY OF MARRIED PERSONS.<sup>1</sup>**

§ 1. **May Make Valid Conveyances, etc., to Each Other.**—SECTION 1. *Be it enacted, etc.,* That a husband may give, grant, sell or convey directly to his wife, and a wife may give, grant, sell or convey directly to her husband, his or her community right, title, interest or estate in all or any portion of their community real property; and every deed made from husband to wife, or from wife to husband, shall operate to divest the real estate therein recited from any or every claim or demand as community property, and shall vest the same in the grantee as separate property; the grantor in all such deeds, or the party releasing such community interest or estate, shall sign, seal, execute and acknowledge the deed as a single person, without the joinder therein of the married party therein named as grantee: *Provided, however,* That the conveyances or transfers hereby authorized shall not affect any existing equity in favor of creditors of the grantor at the time of such transfer, gift or conveyance. *And provided further,* That any deeds of gift, conveyances or releases of community estate by or between husband and wife heretofore made, but in which the husband and wife have not joined as grantors, said deeds, where made in good faith and without intent to hinder, delay or defraud creditors, shall be and the same are hereby fully legalized as valid and binding.

§ 2. **May Execute Powers of Attorney Separately.**—SEC. 2. A husband or wife may make and execute powers of attorney for the sale, conveyance, transfer or encumbrance of his or her separate estate, both real and personal, without the other spouse joining in the execution thereof. Such power of attorney shall be acknowledged and certified in the manner provided by law for the conveyance of real estate; nor shall anything herein contained be so construed as to prevent either husband or wife from appointing the other his or her attorney in fact for the purposes provided in this section.

§ 3. **How Such Powers Shall be Executed.**—SEC. 3. Any conveyance, transfer, deed, lease or other encumbrances executed under and by virtue of such power of attorney shall be executed, acknowledged and certified in the same manner as if the person making such power of attorney had been unmarried.

§ 4. **May Make Powers of Attorney to Each Other and to Third Persons.**—SEC. 4. A husband may make and execute a letter of attorney to the wife, or the wife may make and execute a letter of attorney to the husband, authorizing the sale or other disposition of his or her community

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Blen. Sess. 1887-88, p. 52.) All conflicting acts and parts of acts repealed. In effect from date.



interest or estate in the community property and as such attorney-in-fact to sign the name of such husband or wife to any deed, conveyance, mortgage, lease or other encumbrance, or to any instrument necessary to be executed by which the property conveyed or transferred shall be released from any claim as community property. And either said husband or said wife may make and execute a letter of attorney to any third person to join with the other in the conveyance of any interest, either in separate real estate of either or in the community estate held by such husband or wife in any real property. And both husband and wife owning community property may jointly execute a power of attorney to a third person, authorizing the sale, encumbrance or other disposition of community real property, and so execute the necessary conveyance or transfer of said real estate.

**§ 5. All Powers Heretofore Properly Executed, and All Conveyances Under, Declared Valid.**—SEC. 5 All powers of attorney heretofore made and executed by any married woman joined with her husband and duly acknowledged and certified, and all powers of attorney heretofore made or executed by husband or wife to the other, authorizing the sale or other disposition of real estate, whether separate or community real estate, duly acknowledged conformably with the previous sections, and all conveyances heretofore and hereafter executed under and by virtue of such powers of attorney and acknowledged and certified in the manner provided herein, shall be valid and binding: *Provided*, That any rights vested in third persons shall not be affected by anything in this section contained

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## TITLE XIX.—NAMES OF PERSONS, CHANGE OF.

### No. 631.—AN ACT AUTHORIZING DISTRICT COURTS TO CHANGE THE NAMES OF PERSONS.<sup>1</sup>

**§ 1. Jurisdiction of Court.**—SECTION 1. *Be it enacted, etc.*, That the district courts in the several counties of this Territory may change the names of persons on application by petition.

**§ 2. Venue of Application.**—SEC. 2. The application of a person may be made to the district court of the county in which such person resides.

**§ 3. Notice of Application: Publication of.**—SEC. 3. Upon petition being filed for such change, the applicant shall give notice thereof by three weekly publications in some newspaper of general circulation printed and published in the proper county, or if no newspaper be printed therein, in a newspaper printed and published nearest thereto, thirty days prior to the first day of the term at which such petition shall be heard.

**§ 4. Proof of Publication.**—SEC. 4. Proof of the publication required in this act shall be made by filing a copy of such published notice, verified by the affidavit of a disinterested person, and when such proof of such publication is made, the court shall proceed and determine such petition, and make such order and decree therein as such court shall deem just and reasonable.

**§ 5. Copy of Decree, Evidence of Name.**—SEC. 5. A copy of the decree of such court changing the name of any person, certified under the

<sup>1</sup> Passed Jan. 26, 1855. (See Second Reg. Sess. 1854-55, p. 21.)

seal of such court by the clerk thereof, shall be sufficient evidence of the name of such person, and of such change having been made, in any court of this Territory.

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**No. 632.—AN ACT AUTHORIZING DISTRICT COURTS TO CHANGE THE NAMES OF PERSONS.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 411.) This No. is *verbatim* as No. 631, *supra*. In effect from date.

**No. 633.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

**§ 1. SECTION 1. *Be it enacted, etc.***

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**CHAPTER L.**

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**§ 2. Jurisdiction and Power of Court.—SEC. 638.** Any person desiring a change of his name, or that of his child or ward, may apply therefor to the district court of the county in which he resides by a petition setting forth the reasons for such change; thereupon such court, in its discretion, may order a change of the name, and thenceforth the new name shall be in place of the former.

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<sup>1</sup> Approved Nov. 8, 1877. (See Sixth Bien. Sess. 1877, pp. 3, 132). For date in effect and repealing clause see No. 122, §§ 3, 4.

**No. 634.—AN ACT TO REGULATE THE PRACTICE AND PROCEEDINGS IN CIVIL ACTIONS.<sup>1</sup>**

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<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 139, chap. 53.) This No. is *verbatim* as No. 633, *supra*. For date in effect, repealing clause, etc., see Nos. 338, 339, 340.

## TITLE XX.—REVENUE.

**No. 635.—AN ACT CREATING THE BOARD OF COUNTY COMMISSIONERS, AND DEFINING THEIR DUTIES.<sup>1</sup>**

**§ 1. Term of Office.—SECTION 1. *Be it enacted, etc.*** That there shall be established in each organized county in this Territory a board of commissioners, to consist of three qualified electors, two of whom shall constitute a quorum to do business, to be elected by the qualified electors at the annual election, who shall hold their office for three years: *Provided*, That the commissioners now in office, or hereafter appointed to office, shall continue in force until a new board of commissioners shall be elected at the first annual election.

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<sup>1</sup> No date given. (See First Reg. Sess. 1874, p. 419.)



§ 2. **Sessions.**—SEC. 5. The board of commissioners shall hold four sessions annually, at the seat of justice of their respective counties, commencing on the first Mondays of April, July, September and December, at all of which they shall transact any business which may be required by law. *Provided*, That if the district court be in session on any of the above mentioned days, the commissioners shall meet on the Monday preceding; for no session shall be continued but a longer period than six days.

§ 3. **Powers.**—SEC. 11. The several boards of county commissioners are authorized and required— \* \* \* (4) To fix the amount of taxes to be assessed according to the provisions of law, and cause the same to be collected; \* \* \* (6) To have the care of the county property, and the management of the county funds and business, except in cases otherwise provided for; and shall have no other powers except such as are or may be given by law.

§ 4. **Assessment Roll to be Inspected and Approved.**—SEC. 17. The board of commissioners, at their session in July in each year, shall receive and inspect the assessment roll returned by the assessors, and if it be found correct it shall be accepted by the board, in writing, signed by the chairman and attested by the clerk, and cause the same to be filed in the office of the county auditor, where it shall remain as a matter of record, and shall be a guide for future assessors so far as the same shall remain correct.

**No. 636.—AN ACT SUPPLEMENTARY TO AN ACT CREATING THE BOARD OF COUNTY COMMISSIONERS AND DEFINING THEIR DUTIES.<sup>1</sup>**

§ 1. **Regular Sessions.**—SECTION 1. *Be it enacted, etc.*, That the regular session of the board of county commissioners shall commence on the first Mondays of March, June, September and December, and that the provisions of an act to which this is a supplement, so far as they are inconsistent with this act, be and they are hereby repealed.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 423.)

**No. 637.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>**

§ 1. **What Taxable—Amount of Tax.**—SECTION 1. *Be it enacted, etc.*, That all taxes for the support of the government of this Territory, \* \* \* on property valued in equal and rateable proportion, to be fixed from time to time by law,<sup>2</sup> and for county expenditures, to be determined by the county commissioners. \* \* \* There shall also be levied a tax of one mill<sup>3</sup> upon every dollar's worth of real and personal property in this Territory, for territorial purposes, and two mills for school purposes, and not to exceed four mills<sup>4</sup> for county purposes.

§ 2. **What Exempt.**—SEC. 2. All real and personal property belonging to any religious society, or to any benevolent, charitable, literary, or scientific institution, or invested for the use of the same, or held by trustees, all real and personal property belonging to this Territory, or any county thereof, all school houses and school lands, public libraries, and all places of burial, the property of all Indians, shall be exempt from taxation.<sup>5</sup>

§ 3. **Where and to Whom Shall be Assessed.**—SEC. 3. All lands liable to taxation shall be assessed in the county in which the same may

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 330.)

<sup>2</sup> \* \* \* See No. 654, *infra*.

be, in the name of the owner or occupant thereof, and all unoccupied lands, where the name of the owner is unknown, shall be assessed as lands of persons unknown.

\* \* \* \* \*

§ 4. **Time of Assessment—Form of Roll.**—SEC. 6. The assessor of each county, between the first Monday of March and the last Monday of May,\* shall ascertain the names of all persons in such county liable to taxation, and also all taxable property therein; and shall prepare an assessment roll, in which shall be set down in separate columns. (1) The names of taxable persons in such county; (2) a concise description of all real estate taxable to each; (3) the full cash value thereof; \* \* \* (5) the description of [a] city or town lots taxable to each, and their value; \* \* \* And when any person is assessed as trustee, guardian, executor or administrator, a designation of his representative character shall be added to his name, and such assessment shall be entered in a separate column from his individual assessment.

§ 5. **Improvements of Settlers.**—SEC. 7. When any person shall be occupying and claiming any lands, by virtue of the law of the United States granting land to actual settlers thereon, the improvements shall be valued as part of the personal property of such person.†

§ 6. **Assessor May Require Sworn List.**—SEC. 8. Any assessor may require any person liable to taxation in his county, to furnish a list of his real estate, city and town lots, liable to taxation in the county, and a list of personal property liable to taxation, and may require such person to make oath that such list contains a full and true account of all his property, liable to be taxed in the county; and if any person refuse to furnish such list, or to swear to the same, when required so to do by the assessor, the assessor shall\* ascertain the taxable property of any such person, from the best information to be derived from other sources, and shall enter such refusal to furnish a list, or to swear or affirm, upon his roll.

§ 7. **Delivery of Roll.**—SEC. 9. Every assessor, after the correction of all errors in the assessment roll, according to the provisions of the act relating to county assessors,† shall deliver the corrected assessment roll to the board of county commissioners, on or before their annual session in June \*

§ 8. **Equalization and Levy.**—SEC. 10. The county commissioners of such county shall, at their session in June,\* examine the assessment roll of their county, and shall have power to make all alterations and corrections in such roll, as they shall deem necessary to make the same conform to the requirements of this act, and shall also determine the amount of money to be raised in their county for county purposes, and apportion such amount, together with the Territorial tax and the school tax required by law to be apportioned on the valuation of taxable property in their county for the year, and levy a tax therefor, and cause such orders to be entered at large upon their records.

\* \* \* \* \*

§ 9. **Penalty for Failure to Furnish Sworn List.**—SEC. 13. The county auditor shall, within fifteen days after the adjournment of the June\* session of the board of county commissioners, estimate the amount of taxes due on the valuation of property in his county, and shall make out a duplicate assessment roll, which shall contain, in addition thereto, columns showing the amount of the territorial, school and county tax, and total amount of each column of valuation, and shall deliver a copy of such roll to the county treasurer, and charge such treasurer with the amount of such taxes: *Provided*, That when any person shall be returned on the assessment roll as having refused to furnish a list, or to

\* \* \* See No. 654, *infra*.

† See No. 638, *infra*.

swear to such list when required by the assessor, the county auditor shall add fifty per cent to the valuation of the property of such person, and estimate the amount of his tax thereon.

§ 10. **When Taxes Payable.**—SEC. 14. All persons liable to taxation may, before the first day of September in each year, pay their taxes to the county treasurer. \* \* \*

§ 11. **Warrant for Collection, if Delinquent: Substance of.**—SEC. 15. The county treasurer shall, within ten days after the expiration of the time allowed for the payment of taxes, make out a schedule of unpaid taxes in form of duplicate assessment roll, verified by affidavit, and deliver the same to the county auditor, who shall add ten per cent. to the amount of such unpaid taxes, and forthwith issue a transcript of such schedule, with the ten per cent. added to such taxes, with a warrant attached thereto in the name of the United States, under his hand and the seal of the board of county commissioners, to the sheriff of the county, commanding him to collect the taxes charged in such transcript, by demanding payment of the persons chargeable therein, and making sale of the goods and chattels of such persons, if necessary, and to return the same to such auditor on or before the first Monday in January<sup>10</sup> next ensuing thereafter; and such auditor shall charge such sheriff with the amount of money to be collected in such transcript.

§ 12. **Notice of Sale.**—SEC. 16. The sheriff shall proceed to call once on each person named in the transcript, and collect the taxes charged, as provided in this act, and if not then paid, shall levy the same on the goods and chattels of such person, and give six days' notice of the time and place of sale, and the property to be sold, by posting up advertisements in four public places in the county, and sell the same at public auction; \* \* \*

§ 13. **Return of Sale.**—SEC. 17. The sheriff shall \* \* \* return to the auditor, with his transcript and warrant, on or before the first Monday in January<sup>11</sup> next ensuing, a delinquent list of all taxes remaining unpaid, setting down such as are due and unpaid on lands or city or town lots, with a proper description thereof. \* \* \*

§ 14. **When Taxes Delinquent.**—SEC. 18. From the date of the sheriff's returns, all taxes unpaid are delinquent, and draw interest<sup>12</sup> at the rate of twenty-five per cent. per annum; and taxes on lands, city or town lots are hereby made a perpetual lien thereupon, against all persons, except the United States and this Territory.

§ 15. **Notice and Manner of Sale—Substance of Notice.**—SEC. 19. The county auditor shall, within twenty days, make out two lists of such lands, city and town lots, returned as delinquent, with the amount of taxes due thereon, and deliver one list to the county sheriff, who shall advertise such list in some newspaper in the county, or if there be no such newspaper in the county, then in some newspaper of general circulation in the Territory, for six weeks<sup>14</sup> successively, before the first Monday in May,<sup>12</sup> and shall also post such list in six public places in his county, for six weeks<sup>13</sup> before such first Monday in May,<sup>13</sup> and shall proceed to sell at public auction, to the highest bidder, on the first Monday of May,<sup>13</sup> between the hours of ten o'clock A. M. and five o'clock P. M., at the county seat, all delinquent lands, and city and town lots, the unpaid tax on which, and accruing interest and costs, shall not have been paid before such time, and shall continue such sale from day to day, until all such lands and town lots shall be sold, or shall have been twice offered for sale. \* \* \*

§ 16. **When County Shall Become Purchaser.**—SEC. 20. When any lands or town lots cannot be sold for the amount of taxes, interest, and

<sup>10</sup> <sup>11</sup> <sup>12</sup> <sup>13</sup> <sup>14</sup> See No. 634, in/rn.



charges thereon, such lands and town lots shall be passed over, and re-offered for sale before the close of such sale; and if the same cannot be then sold for the amount, such lands and town lots shall be purchased by the county treasurer, for the amount due thereon, as county property.

**§ 17. Certificate of Purchase.**—SEC. 21. The county treasurer shall, on the payment to him, within forty-eight hours, of the amount bid on any land, city or town lot, make out a certificate of purchase of such land or lot, in the name of the Territory of Washington, signed by such treasurer in his official name, to such purchaser, which shall be held to convey all right, title and interest of the person in whose name such land or town lot shall have been taxed, except as hereinafter provided; and where such payment shall not be made within forty-eight hours, such lands and town lots shall be considered as sold to the county. \* \* \*

**§ 18. Disposition of Lands Purchased by County.**—SEC. 22. The county treasurer shall, within ten days after such first Monday in May,<sup>18</sup> make out a list of all lands and town lots sold to the county, verified by affidavit; and the county auditor shall enter the same as county lands, city and town lots, in a book to be kept for that purpose, and taxes shall be regularly assessed thereon, and such lands, and city and town lots, shall be included in the delinquent list furnished every year, and with the amount of such year's tax added to the delinquent tax, and interest and charges thereon, be offered for sale as other delinquent lands, until sold for the amount of such delinquent tax,<sup>18</sup> interest, all charges and accrued taxes.

**§ 19. Redemption: Limitation and Manner of.**—SEC. 23. All lands, city and town lots sold to actual purchasers shall be subject to redemption by the former owner thereof within two years thereafter, on the payment of the delinquent taxes, with fifty per cent. interest, cost, charges and the accruing tax, to the purchaser, who shall receipt therefor, or to the county treasurer for the use of such purchaser, and if no receipt of such purchaser shall be filed with such treasurer, or no such payment be made to him, the holder of the certificate of purchase shall be entitled to receive a deed from the county treasurer of the land, city or town lots described in such certificate of purchase, which deed shall run in the name of the Territory of Washington, and be signed by such treasurer in his official capacity, and shall be presumptive evidence of the regularity of all former proceedings; \* \* \*

**§ 20. Redemption of Land Sold to County.**—SEC. 24. Lands and city and town lots sold to the county may be redeemed by the former owner thereof, by such owner obtaining from the county auditor a certified statement of the amount of all taxes, interest and costs accrued, charged to such lands or lots, and paying such amount to the county treasurer, who shall give him a receipt therefor; and the county auditor, on filing such receipt, shall give to such owner a certificate of redemption of such land, city or town lots, signed by him in his official capacity, and sealed with the seal of the board of county commissioners, and shall charge such treasurer with the amount of such receipt, and shall omit such land, city or town lots so redeemed from his list of county lands.

\* \* \*  
**§ 21. Effect of Errors, etc., in Roll.**—SEC. 26. If, on the assessment rolls or tax lists, schedule or transcripts, there shall be any error in the name of a person taxed, the name may be changed and the tax collected from the person intended, if he be taxable, and can be identified by the assessor, treasurer or sheriff; and whenever the treasurer, after the duplicate certificate is delivered to him, shall ascertain that any land or other property is omitted, he shall assess and estimate the tax thereon, and enter the same upon his duplicate assessment roll, and inform the county auditor

<sup>18</sup> See No. 654, *infra*.

thereof, who shall charge him with the amount of such tax. If the sheriff, after he has received the transcript of the schedule of unpaid taxes, shall ascertain such omission, he shall assess and estimate such tax and enter the same upon his transcript, and proceed to collect it, and inform the county auditor thereof, who shall charge him with the amount of such tax.

**§ 22. Duty of Commissioners, Relative to Taxes Already Due.—**

**SEC. 27.** \* \* \* All taxes assessed and now due or delinquent shall be collected under the laws now in force; and the boards of county commissioners shall hold their first session under the provisions of this act on the first Monday in July, 1854, instead of the first Monday in June in such year, as herein provided; and the county assessor shall, for the year 1854, prepare his assessment roll without receiving a blank therefor before the first Monday in July, and deliver the same to the board of county commissioners at their July session, which July session of such board shall be, for the purposes of this act, the June term thereof.

\* \* \* \* \*

**§ 23. Mistakes, etc., of Officer Shall Invalidate Proceedings.—SEC.**

**30.** When, by the mistake or wrongful act of any officer, lands, city or town lots have been sold for taxes on which no tax was due, such sale shall be illegal, and all deeds and certificates of purchase shall be invalid; and the purchaser of such lands or town lots<sup>1</sup> shall be entitled to recover twice the amount of delinquent taxes, interest, costs and charges, and accrued taxes, paid by him, from such officer, either by suit on his bond or by action against such officer himself, before any tribunal having jurisdiction of the amount.

\* \* \* \* \*

<sup>1</sup> See No. 654, *infra*.

**No. 638.—AN ACT RELATING TO COUNTY ASSESSORS.<sup>1</sup>**

**§ 1. How Selected.—SEC. 1.** *Be it enacted, etc.,* That at the first annual election, in each county, and annually thereafter, there shall be elected a county assessor, \* \* \*

\* \* \* \* \*

**§ 2. Assessment: How Levied, Corrected, etc.—SEC. 3.** Each assessor shall receive from the county auditor, before the first Monday of March, a blank assessment roll, and shall prepare a full and complete assessment roll, according to law; and three weeks before the last Monday in May, shall give public notice in some newspaper printed in his county, and if there be no such newspaper, then in some newspaper in general circulation in the Territory, or by posting up notices in six conspicuous places in his county, setting forth that on the last Monday in May the assessor will attend at the office of the county auditor of his county, and, with the assistance of said auditor, will publicly examine the assessment rolls, and correct all errors in valuations, descriptions or qualities of lands, lots or other property; and it shall be the duty of persons interested to appear at the time and place appointed; and if it shall appear, during such examination, that there is any lands, lots or other property assessed twice, or assessed beyond its actual value, or assessed in the name of a person not the owner thereof, or any lands, lots or other property not assessed, the auditor and assessor shall make the proper corrections: *Provided*, That for the year 1854, the acting assessor shall not be required to prepare his assessment roll before the first Monday in July, or to give notice of his attendance, or attend at the county seat, to correct errors in such roll.

\* \* \* \* \*

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 428.)



§ 3. **Duplicate Roll.**—SEC. 5. It shall be the duty of the assessor, in each county, to make out and retain in his possession, a duplicate of his assessment roll, and shall make the necessary corrections therein, so that such duplicate will correspond with the assessment roll on file in the office of the county auditor; and also make a plot of town plots within his county, and note thereon the owner of each tract of land, and of each town lot, and deliver such duplicate assessment roll and plot, and other documents relating thereto, to his successor in office.

\* \* \* \* \*

**No. 639.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING COUNTY AND TERRITORIAL REVENUE," PASSED APRIL 29, 1854.<sup>1</sup>

§ 1. **When Taxes Payable.**—SECTION 1. *Be it enacted, etc.,* That section fourteen of said act<sup>2</sup> to which this is an amendment be so amended that the time for paying the county treasurer shall be extended so as to read, "that all persons liable to taxation shall, before the first day of November in each year, pay their taxes to the county treasurer."

§ 2. **Repealing Clause.**—SEC. 2. That so much of said section fourteen as this act is intended to amend, inconsistent herewith, be and is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Passed Dec. 15, 1854. (See Second Reg. Sess. 1854-55, p. 33.) In effect from date.

<sup>2</sup> See No. 637, § 10, *supra*. There seems to be no date to this act, as stated in the title hereto.

**No. 640.**—AN ACT TO MORE SPECIFICALLY DEFINE THE POWERS AND DUTIES OF COUNTY COMMISSIONERS IN CERTAIN CASES.<sup>1</sup>

§ 1. **Special Tax.**—SECTION 1. *Be it enacted, etc.,* That the board of county commissioners of the several counties in this Territory shall have no power to levy a special tax for county purposes, except in the manner hereinafter provided.

§ 2. **In What Case Special Tax May be Levied.**—SEC. 2. When, in the opinion of the commissioners of any county, the public good requires a court house, jail or other county building, they shall estimate the cost thereof, and submit the same to the people of their county at the next annual election (notice thereof being given at the same time and place as for other elections), when, if a majority of the qualified voters of such county shall vote in favor of such special tax, the commissioners shall assess and cause to be collected such tax in the same manner as other county taxes are collected.

\* \* \* \* \*

<sup>1</sup> Passed January 23, 1857. (See Fourth Reg. Sess. 1856-57, p. 30.)

**No. 641.**—AN ACT IN RELATION TO THE CONSTRUCTION OF ROADS AND HIGHWAYS, AND DEFINING THE DUTIES OF SUPERVISORS OF HIGHWAYS.<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.,*

\* \* \* \* \*

§ 2. **Levy and Assessment for Road Purposes.**—SEC. 21. It shall be the duty of the board of county commissioners of the several counties in this Territory, at their June session, to levy and assess a road tax of nine

<sup>1</sup> Passed Jan. 28, 1857. (See Fourth Reg. Sess. 1856-57, p. 35.) All conflicting acts repealed. In effect from date.

dollars on every person liable to perform labor on the public roads, and also to assess twenty-five cents road tax on every one hundred dollars of the valuation as returned by the county assessor, which tax shall be collected with the county and territorial tax, and in the manner hereafter described, which shall constitute a road fund, and the county auditor shall, immediately after the June session, furnish each supervisor of road districts with an abstract or duplicate of the taxes so assessed for road purposes in his road district.

\* \* \* \* \*

**No. 642.—AN ACT IN RELATION TO THE CONSTRUCTION OF ROADS AND HIGHWAYS, AND DEFINING THE DUTIES OF SUPERVISORS OF HIGHWAYS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Levy and Assessment for Road Purposes.**—SEC. 21. It shall be the duty of the board of county commissioners of the several counties in this Territory, at their May session, to levy and assess a road tax of nine dollars on every person liable to perform labor on the public roads, and also to assess twenty-five cents road tax on every one hundred dollars of the valuation as returned by the county assessor, which tax shall be collected with the county and territorial tax, and in the manner hereafter described, which shall constitute a road fund; and the county auditor shall, immediately after the May session, furnish each supervisor of road districts with an abstract or duplicate of the taxes so assessed for road purposes in his road district.

\* \* \* \* \*

§ 3. **Collection of Delinquent Tax.**—SEC. 25. And if, through neglect or otherwise, any person fails to pay their road tax as provided in this act, it shall be the duty of the tax collector to collect all such delinquent tax as is required by law, and pay the same over to the supervisor of the district to which it belongs.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 15, 1859. (See Sixth Reg. Sess. 1858-59, p. 7.)

**No. 643.—AN ACT TO CHANGE THE TIME FOR HOLDING THE SESSIONS OF THE COUNTY COMMISSIONERS' COURTS.<sup>1</sup>**

§ 1. **Two Sessions Annually.**—SECTION 1. *Be it enacted, etc.* That the board of commissioners in the several counties in this Territory shall hold but two regular sessions annually at the seat of justice of their respective counties, commencing on the first Mondays of May and November, at each of which they shall transact any business which may be required by law.

§ 2. **Transaction of Business.**—SEC. 2. All the business heretofore required to be transacted at the March and June sessions of said commissioners shall be done and transacted at their May term, and all business heretofore required to be transacted at the September and December sessions of said commissioners shall be done and transacted at their November term.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 17, 1859. (See Sixth Reg. Sess. 1858-59, p. 21.) All conflicting acts and parts of acts repealed.

**No. 644.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE."**<sup>1</sup>

§ 1. **Time of Assessment.**—SECTION 1. *Be it enacted, etc.*, That section six of the act to which this is an amendment<sup>2</sup> be amended by inserting the word "April" instead of the word "May," where it occurs in said section.

§ 2. **Time for Delivery of Roll, Equalization of Taxes and When Payable.**—SEC 2 That sections nine, ten and thirteen<sup>3</sup> of said act be amended by inserting the word "May" instead of the word "June," wherever it occurs in said sections.

<sup>1</sup> Passed Jan. 17, 1859. (See Sixth Reg Sess. 1858-59, p. 18.)

<sup>2</sup> See No. 637, § 4, *supra*.

<sup>3</sup> See *ibid*, §§ 6, 7, 8.

**No. 645.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATING TO COUNTY ASSESSORS."**<sup>1</sup>

§ 1. **Date of Levy.**—SECTION 1. *Be it enacted, etc.*, That section three of the act to which this is an amendment<sup>2</sup> be amended by inserting the word "April" instead of the word "May," wherever it occurs in said section.

<sup>1</sup> Passed Jan. 17, 1859. (See Sixth Reg. Sess. 1858-59, p. 20.)

<sup>2</sup> See No. 638, § 2, *supra*.

**No. 646.—AN ACT TO AMEND AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE.**<sup>1</sup>

§ 1. **Time for Collection—Return of Sale.**—SECTION 1. *Be it enacted, etc.*, That sections fifteen and seventeen of the act to which this is an amendment<sup>2</sup> be amended by inserting the word "February" instead of the word "January," wherever it occurs in said sections.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1859. (See Sixth Reg. Sess. 1858-59, p. 19.) All conflicting acts or parts of acts repealed.

<sup>2</sup> See No. 637, §§ 11, 13.

**No. 647.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE."**<sup>1</sup>

§ 1. **Amount of Levy.**—SECTION 1. *Be it enacted, etc.*, That section first of the act to which this is an amendment<sup>2</sup> be so amended that it shall read: There shall also be levied a tax of one quarter of a mill upon every dollar's worth of real and personal property in this Territory for Territorial purposes.

§ 2. **Certain Church Property Exempt.**—SEC. 2. That all church property over and above two town lots, on which a church may be erected, if in a town, and one-half acre of land, on which a church may be erected, if in the country, shall be taxed as other property.

\* \* \* \* \*

<sup>1</sup> Passed Feb. 1, 1859. (See Sixth Reg. Sess. 1858-59, p. 20.)

<sup>2</sup> See No. 637, § 1, *supra*.



**No. 648.—AN ACT FOR THE RELIEF OF COUNTIES NOW IN DEBT.<sup>1</sup>**

**§ 1. Proposition to be Submitted to Vote.**—SECTION 1. *Be it enacted, etc.*, That the county commissioners of any county in this Territory, which is now in debt, may if they deem it proper, at their May session in the year 1859, submit a proposition to the legal voters of such county at the next general election to levy a tax for county purposes, not to exceed double the amount heretofore levied for the said year 1859.

\* \* \* \* \*

<sup>1</sup> Passed Feb. 3, 1859. (See Sixth Reg. Sess. 1858-59, p. 22.)

**No. 649.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CHANGE THE TIME FOR HOLDING THE SESSIONS OF COUNTY COMMISSIONERS' COURT."<sup>1</sup>**

**§ 1. Transaction of Business.**—SECTION 1. *Be it enacted, etc.* That section two (2) of an act entitled "An act to change the time for holding the sessions of the county commissioners' court,"<sup>2</sup> be and the same is hereby so amended as to read: All the business heretofore required to be transacted at the March and June sessions of said commissioners, shall be done and transacted at their May term; and all business heretofore required to be transacted at the September and December sessions of said commissioners, shall be done and transacted at their November term; and the county treasurers of the several counties shall, fifteen days before the first Monday in November, make out and return delinquent tax lists to the county auditors.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 31, 1860. (See Seventh Reg. Sess. 1859-60, p. 331.) All conflicting acts and parts of acts repealed.

<sup>2</sup> See No. 643, § 2, *supra*.

**No. 650.—AN ACT TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>**

**§ 1. Assessor Shall Require Sworn List of Property.**—SECTION 1. *Be it enacted, etc.* That section eight (8) of the act to which this is an amendment<sup>2</sup> shall be amended by striking out the word "may," where it occurs in said section, and insert the word "shall" \* \* \*

\* \* \* \* \*

<sup>1</sup> Passed Jan. 22, 1861. (See Eighth Reg. Sess. 1860-61, p. 29.) In effect from date.

<sup>2</sup> See No. 637, § 6, *supra*.

**No. 651.—AN ACT TO AMEND AN ACT ENTITLED AN ACT TO AMEND AN ACT PASSED FEBRUARY 1, 1859, TO PROVIDE FOR TERRITORIAL REVENUE.<sup>1</sup>**

**§ 1. Amount of Levy.**—SECTION 1. *Be it enacted, etc.*, That the act to which this is an amendment<sup>2</sup> shall read, "There shall also be levied a tax of one mill upon every dollar's worth of real and personal property in this Territory for territorial purposes."

\* \* \* \* \*

<sup>1</sup> Passed Jan. 30, 1861. (See Eighth Reg. Sess. 1860-61, p. 46.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 647, *supra*.

**No. 651.**—AN ACT AMENDATORY OF AN ACT PASSED JANUARY 15, 1859, ENTITLED "AN ACT IN RELATION TO THE CONSTRUCTION OF ROADS AND HIGHWAYS, AND DEFINING THE DUTIES OF SUPERVISORS OF HIGHWAYS."<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Rate of Taxation.**—SEC. 2. That section 21 of the said act<sup>2</sup> be amended by striking out the word "nine" in the third line, and inserting the word "four," also strike out the phrase "twenty-five" in the fourth line of same section, and insert the word "twenty."

\* \* \* \* \*

<sup>1</sup> Passed Jan. 30, 1861. (See Eighth Reg. Sess. 1860-61, p. 49.)

<sup>2</sup> See No. 710 and 709, § 2, *supra*.

**No. 652.**—AN ACT CREATING THE BOARD OF COUNTY COMMISSIONERS AND DEFINING THEIR DUTIES.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Regular Sessions, etc.**—SEC. 5. The board of commissioners in the several counties in this Territory shall hold regular sessions at the seat of justice in their respective counties, commencing on the first Mondays of February, March, August and November, at each of which they shall transact any business which may be required by law: *Provided*, That if the district court be in session on any of the above mentioned days the commissioners shall meet on the Monday preceding, but no session shall be continued for a longer period than six days.

\* \* \* \* \*

§ 3. **Powers and Duties.**—SEC. 11. The several boards of county commissioners are authorized and required—(1) To provide for the erection and repairing of court houses, jails and other necessary public buildings for the use of the county; (2) to lay out, discontinue or alter county roads and highways, within their respective counties, and to do all other necessary acts relating thereto; \* \* \* (4) to fix the amount of taxes to be assessed, according to the provisions of law, and cause the same to be collected; \* \* \* (6) to have the care of the county property and the management of the county funds and business, except in cases otherwise provided for; and shall have no other powers, except such as are or may be given by law.

\* \* \* \* \*

§ 4. **Inspection and Acceptance of Assessment Roll.**—SEC. 17. The board of commissioners, at their session in November in each year, shall receive and inspect the assessment roll returned by the assessors, and if it be found correct, it shall be accepted by the board in writing, signed by the chairman and attested by the clerk, and cause the same to be filed in the office of the county auditor, where it shall remain as a matter of record, and shall be a guide for future assessors, so far as the same shall remain correct.

\* \* \* \* \*

§ 5. **No Special Tax: Exception.**—SEC. 21. The board of county commissioners of the several counties in this Territory shall have no power to levy a special tax for county purposes, except in the manner hereinafter provided.

§ 6. **Special Tax to be Submitted to Vote.**—SEC. 22. When, in the opinion of the commissioners of any county, the public good requires a

<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 539.) In effect from date.



court house, jail or other county building, they shall estimate the cost thereof, and submit the same to the people of their county at the next annual election, notice thereof being given at the same time and place as for other elections, when, if a majority of the qualified voters of such county shall vote in favor of such special tax, the commissioners shall assess and cause to be collected such tax in the same manner as other county taxes are collected.

\* \* \* \* \*

§ 7. **Return of Delinquent Lists.**—SEC. 24. The county treasurers of the several counties shall, fifteen days before the first Monday in November, make out and return delinquent tax lists to the county auditors.

\* \* \* \* \*

**No. 6524.—AN ACT IN RELATION TO THE CONSTRUCTION OF ROADS AND HIGHWAYS, AND DEFINING THE DUTIES OF SUPERVISORS OF HIGHWAYS.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 29, 1863. (See Tenth Reg. Sess. 1862-63, p. 509.) This No. is *verbatim* as No. 709, except § 2 of said No. at \* instead of "twenty-five" read "twenty." All inconsistent acts or parts of acts repealed. In effect from date.

**No. 653.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT CREATING THE BOARD OF COUNTY COMMISSIONERS AND DEFINING THEIR DUTIES." PASSED JANUARY 27, 1863.<sup>1</sup>**

§ 1. **Time of Inspection and Acceptance of Roll.**—SECTION 1. *Be it enacted, etc.,* That section \* \* \* 17 of the act to which this is an amendment<sup>2</sup> be amended by striking out the word "November" where it occurs in said section and inserting "May."

\* \* \* \* \*

<sup>1</sup> Passed Jan. 30, 1864. (See Eleventh Reg. Sess. 1863-64, p. 25.) In effect from date.

<sup>2</sup> See No. 652, § 3, *supra*.

**No. 654.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING TERRITORIAL AND COUNTY REVENUE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 29, 1864. (See Eleventh Reg. Sess. 1863-64, p. 30, secs. 1 to 3, inclusive, 6 to 10, inclusive, 13 to 24, inclusive, 26, 80.) This No. is *verbatim* as No. 637, *supra*, except § 1 of said No. at \* the words "to be fixed from time to time by law" are omitted, and at \* instead of "one mill" read "two mills," and at 4 instead of "four mills" read "five mills," and instead of § 2, read as follows "All church property to the amount of two lots on which a church is erected in a town and one acre of land on which a church is erected in the country, or any benevolent, charitable, literary or scientific institution, or invested for the use of the same, or held by trustees, all real and personal property belonging to this Territory or any county thereof, all school houses and school lands, public libraries, and all places of burial, and the property of all Indians shall be exempt from taxation;" and § 4 at \* instead of "the first Monday of March and the last Monday of May" read "the first Monday of February and the first of May," and § 5 at 7 instead of "person" read "owner," and § 6 at \* instead of "shall" read "may," and §§ 7, 8 and 9 at \* instead of "June" read "May," and § 11 at 10 instead of "first Monday of January" read "first of November," and § 13 at 11 instead of "January" read "November," and § 14 at 12 instead of "and draw interest" read "and shall draw interest," and §§ 15 and 18 at 13 instead of "May" read "December," and § 15 at 14 instead of "six weeks" read "three weeks," and § 18 at 15 "tax" is omitted, and § 22 is omitted, and § 23 at 16 instead of "town lots" read "town property," and the following (which does not appear in No. 637) is added. "Article Third Section 1. It shall be the duty of the board of county commissioners of the several counties in this Territory, at their May session, to levy and assess a road tax of four dollars on every person liable to perform labor on the public roads, and also to assess twenty cents road tax on every one hundred dollars of the valuation as returned by the county assessor, which tax, if not paid in labor, shall be collected with the county and Territorial tax, and in the manner described in the law in relation to the duties of supervisors of roads and highways." All conflicting acts and parts of acts repealed. In effect from date.

**No. 655.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING TERRITORIAL AND COUNTY REVENUE," PASSED JANUARY 29, 1864.<sup>1</sup>**

**§ 1. What Taxable—Amount of Tax.**—SECTION 1. *Be it enacted, etc.,* That section one of article first of the act to which this is amendatory<sup>2</sup> be amended to read as follows: That all taxes for the support of the government of this Territory, \* \* \* and on property valued in equal and rateable proportion, and for county expenditures, to be determined by county commissioners. \* \* \* There shall also be levied a tax of four mills upon every dollar's worth of property in this Territory for Territorial purposes, and shall be used in the payment of Territorial warrants, in the order of their number and issue. The county commissioners may, in their discretion, levy a county tax of not exceeding eight mills on every dollar's worth of real and personal property for county purposes, and not to exceed two mills for school purposes, and at any regular term of the county commissioners' court the said commissioners may make a special appropriation sufficient to pay the current expenses of the county, which appropriation shall have preference in order of payment from the funds raised by the provisions of this act: *Provided,* That the amount so set apart shall in no case exceed one-half the current revenue of the county.

\* \* \* \* \*

**§ 2. In Case of Doubt as to Value, Assessor May Summon Appraisers.**—SEC. 5. It shall be the duty of the assessor, where he has any doubts as to the value of property assessed, before entering the same on his books, to summon two disinterested householders to appear and appraise the property, and the said appraisers shall, if they deem it necessary, have power to select a third, and the persons so selected, after being duly sworn to impartially act, shall proceed to appraise the property indicated by the assessor, and shall make their report to the assessor, who shall assess the property at the amount fixed by the appraisers. Any person aggrieved may take an appeal to the board of county commissioners, who shall proceed to try and determine the said appeal, and their judgment shall be final; \* \* \*

\* \* \* \* \*

**§ 3. When Taxes Payable.**—SEC. 8. All persons liable to taxation may, before the first day of November in each year, pay their taxes to the county treasurer, and the sheriff shall be allowed until the first day of January thereafter to make his return to the county auditor.

**§ 4. Notice of Sale.**—SEC. 9. Amend section \* of the act to which this is amendatory by striking out the word "December" wherever it occurs, and insert the word "March" in lieu thereof.

**§ 5. SEC. 10.** So much of all laws heretofore passed as are in conflict herewith are hereby repealed.

<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 3.)

<sup>2</sup> See Nos. 654 and 657, § 1, *supra*.

<sup>3</sup> See *ibid.*, § 15. Section nineteen probably intended.

**No. 656.—AN ACT TO PROVIDE FOR ASSESSING AND COLLECTING TERRITORIAL AND SCHOOL REVENUE.<sup>1</sup>**

**§ 1. What Taxable—Amount of Tax.**—SECTION 1. *Be it enacted, etc.,* That taxes for Territorial purposes shall be three mills upon every dollar's worth of real and personal property in this Territory, and three mills for school purposes.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 23, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 110.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 6564.—AN ACT IN RELATION TO THE CONSTRUCTION OF ROADS AND HIGHWAYS IN WASHINGTON TERRITORY, AND DEFINING THE DUTIES OF ROAD SUPERVISORS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Levy and Collection of Tax.**—SEC. 16. It shall be the duty of the board of county commissioners of the several counties in this Territory to levy and assess a road tax of not less than four nor more than six dollars on every person liable to perform labor on public roads, also to assess not less than two nor more than eight mills on every dollar's worth of property as returned by the county assessor, which tax shall be assessed and collected in labor at the rate of two dollars per day, or with the county, Territorial and school tax, in the manner hereinafter described, which shall constitute a road fund.

§ 3. **Repealing Clause.**—SEC. 88. All acts or parts of acts in relation to roads and highways heretofore passed are hereby repealed.

<sup>1</sup> Approved Jan. 30, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 11.) In effect from date.

**No. 657.—AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS, AND DEFINING THEIR DUTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Regular Sessions.**—SEC. 5. The board of county commissioners in the several counties in this Territory shall hold regular sessions at the seat of justice of their respective counties, commencing on the first Mondays of February, May, August and November, at each of which they shall transact any business which may be required by law.

§ 3. **Powers and Duties.**—SEC. 11. The several boards of county commissioners are authorized and required—(1) To provide for the erection and repairing of court houses, jails and other necessary public buildings for the use of the county. (2) To lay out, discontinue or alter county roads and highways within their respective counties, and to do all other necessary acts relating thereto according to law. (4) To fix the amount of taxes to be assessed according to the provisions of law, and cause the same to be collected. (6) To have the care of county property and the management of the county funds and business, except in cases otherwise provided for, and shall have no other powers except such as are or may be given by law.

§ 4. **Inspection and Acceptance of Assessment Roll.**—SEC. 17. The board of county commissioners, at their session in May in each year, shall receive and inspect the assessment roll returned by the assessors, and if it shall be found correct, it shall be accepted by the board in writing, signed by the chairman and attested by the clerk, and cause the same to be filed in the office of the county auditor, where it shall remain as a matter of record and shall be a guide for future assessors, so far as the same shall remain correct.

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 51.) All conflicting acts and parts of acts repealed. In effect from date.



§ 5. **No Special Tax: Exception.**—SEC. 21. The board of county commissioners of the several counties in this Territory shall have no power to levy a special tax for county purposes, except in the manner hereinafter provided.

§ 6. **Special Tax to be Submitted to Vote.**—SEC. 22. When in the opinion of the county commissioners of any county the public good requires a court house, jail or other county building, they shall estimate the cost thereof and submit the same to the people of their county at the next biennial election, notice thereof being given at the same time and place as for other elections, when if a majority of the voters of such county shall vote in favor of such special tax, the commissioners shall assess and cause to be collected such tax in the same manner as other county taxes are collected.

\* \* \* \* \*

**No. 658.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING TERRITORIAL AND COUNTY REVENUE.**

**ARTICLE I.**

§ 1. **What Taxable—Amount of Tax.**—SECTION 1. *Be it enacted, etc.,* That all taxes for the support of the government of this Territory, \* \* \* on property valued in equal and rateable proportion and for county expenditures, to be determined by county commissioners; \* \* \* There shall also be levied a tax of three and one-half mills on every dollar's worth of property in this Territory for Territorial purposes, \* \* \* The county commissioners may, in their discretion, levy a county tax of not exceeding eight mills on every dollar's worth of real and personal property for county purposes, and not to exceed three mills for school purposes; \* \* \*

§ 2. **What Exempt.**—SEC. 2. All church property to the amount of two lots on which a church is erected, in a town, and one acre of land on which a church is erected, in the country; or any benevolent, charitable, literary or scientific institution, or invested for the use of the same, or held by trustees; all real and personal property belonging to this Territory, or any county thereof; all school houses and school lands, public libraries, and all places of burial, shall be exempt from taxation.

§ 3. **When and to Whom Shall be Assessed.**—SEC. 3. All lands liable to taxation shall be assessed in the county in which the same may be, in the name of the owner or occupant thereof, and all unoccupied lands where the name of the owner is unknown, shall be assessed as lands of persons unknown, and the assessor shall enter a description of such lands upon his assessment roll.

\* \* \* \* \*

§ 4. **Time of Assessment—Form of Roll.**—SEC. 6. The assessor of each county, between the first Monday of February and the first of May, shall ascertain the names of all persons in such county liable to taxation, and also all taxable property therein, and shall prepare an assessment roll, in which shall be set down in separate columns—(1) The names of all taxable persons in such county; (2) the full cash value of all real estate taxable to each; \* \* \* (4) a description of all city or town lots taxable to each, and their value; (5) the total value; and when any person is assessed as trustee, guardian, executor or administrator, a designation of his representative character shall be added to his name, and such assessment shall be entered in a separate column from his individual assessment.

<sup>1</sup>Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 68.) All conflicting acts and parts of acts repealed.

§ 5. **Improvements of Settlers.**—SEC. 7. When any person shall be occupying and claiming any lands by virtue of the law of the United States granting lands to actual settlers thereon, the improvements shall be valued as a part of the personal property of such owner.

§ 6. **Assessor May Require Sworn Statement.**—SEC. 8. The assessor shall require any person liable to taxation in his county to furnish a list of his real estate, city and town lots liable to taxation in the county, and a list of personal property liable to taxation, and shall require such person to make oath that such list contains a full and true account of all his property liable to be taxed in the county; and if any person refuse to furnish such list, or to swear to the same when required so to do by the assessor, the assessor may ascertain the taxable property of any such person from the best information to be derived from other sources, and shall enter such refusal to furnish a list, or to swear or affirm, upon his roll.

§ 7. **Delivery of Roll.**—SEC. 9. Every assessor, after the correction of all errors in the assessment roll according to the provisions of the act relating to county assessors, shall deliver the corrected assessment roll to the board of county commissioners on or before their regular session in May.

§ 8. **Correction, etc., of Assessment—Levy.**—SEC. 10. The county commissioners of each county shall, at their session in May, examine the assessment roll of their county, and shall have power to make all alterations and corrections in such roll as they may deem necessary to make the same conform to the requirements of this act, and shall also determine the amount of money to be raised in their county for county purposes, and apportion such amount, together with the Territorial tax and the school tax required by law to be apportioned on the valuation of taxable property in their county for the year, and levy a tax therefor, and cause such orders to be entered at large upon their records.

§ 9. **Penalty for Failure to Furnish Sworn List.**—SEC. 13. The county auditor shall, within fifteen days after the adjournment of the May session of the board of county commissioners, estimate the amount of taxes due on the valuation of property in his county, and shall make out a duplicate assessment roll, which shall contain in addition thereto, columns showing the amount of the Territorial, school and county tax, and the total amount of each column of valuation, and shall deliver a copy of such roll to the county treasurer and charge such treasurer with the amount of such taxes: *Provided*, That when any person shall be returned on the assessment roll as having refused to furnish a list, or to swear to such list when required by the assessor, the county auditor shall add fifty per cent. to the valuation of the property of such person and estimate the amount of his tax thereon.

§ 10. **When Taxes Payable.**—SEC. 14. All persons liable to taxation may, before the first day of November in each year, pay their taxes to the county treasurer;

§ 11. **Warrant for Collection of Delinquent Tax: Substance of.**—SEC. 15. The county treasurer shall, within ten days after the expiration of the time allowed for the payment of taxes, make out a schedule of unpaid taxes in form of a duplicate assessment roll, verified by affidavit, and deliver the same to the county auditor, who shall add ten per cent. to the amount of such unpaid taxes, and forthwith issue a transcript of such schedule, with the ten per cent added to such taxes, with a warrant attached thereto in the name of the United States, under his hand and the seal of the board of county commissioners, to the sheriff of the county, commanding him to collect the taxes charged in such transcript, by demanding payment of the persons chargeable therein and making sale of the goods and chattels and other personal property of such persons if necessary, and to return the same to such auditor on or before the first of



November next ensuing thereafter, and such auditor shall charge such sheriff with the amount of money to be collected in such transcript.

§ 12. **Notice of Sale.**—SEC. 16. The sheriff shall proceed to call once on each person named in the transcript, if he can be found in the county, and collect the taxes charged, as provided in this act, and if not then paid, or the person be not found, shall levy the same on the goods and chattels and other personal property of such person, and give six days notice of the time and place of sale and the property to be sold, by posting up advertisements in four public places in the county, and sell the same at public auction, \* \* \*

§ 13. **Return of Sale.**—SEC. 17. The sheriff shall \* \* \* return to the auditor, with his transcript and warrant, on or before the first Monday of November ensuing, a delinquent list of all taxes remaining unpaid, setting down such as are due and unpaid on lands, or city or town lots, with a proper description thereof, \* \* \*

§ 14. **When Taxes Delinquent: Lien of.**—SEC. 18. From the date of the sheriff's return all taxes unpaid are delinquent, and shall draw interest at the rate of twenty-five per cent. per annum, and taxes on lands, city or town lots are hereby made a perpetual lien thereupon against all persons.

§ 15. **Notice of Sale: Substance and Manner of.**—SEC. 19. The county auditor shall, within twenty days, make out two lists of such lands, city and town lots returned as delinquent, with the amount of taxes due thereon, and deliver one list to the county sheriff, who shall advertise such list in some newspaper in the county, or if there be no such newspaper in the county, then in some newspaper of general circulation in the Territory, for three weeks successively before the first Monday in March, and shall also post such list in six public places in his county, for three weeks before such first Monday in March, and shall proceed to sell at public auction to the highest bidder, on the first Monday in March, between the hours of ten o'clock A. M. and five o'clock P. M., at the county seat, all delinquent lands and city and town lots on which the unpaid tax and accruing interest and costs shall not have been paid before such time, and shall continue such sale from day to day until all such lands and town lots shall be sold, or shall have been twice offered for sale, \* \* \*

§ 16. **If Land Not Sold, County Shall Purchase.**—SEC. 20. When any lands or town lots cannot be sold for the amount of taxes, interest and charges thereon, such lands and town lots shall be passed over and re-offered for sale before the close of such sale, and if the same cannot be then sold for the amount, such lands and town lots shall be purchased by the county treasurer for the amount due thereon, as county property.

§ 17. **Certificate of Purchase: Force and Effect of.**—SEC. 21. The county treasurer shall, on the payment to him within forty-eight hours of the amount bid on any land, city or town lots, make out a certificate of purchase of such land or lot, in the name of the Territory of Washington, signed by such treasurer in his official name, to such purchaser, which shall be held to convey all right, title and interest of the person in whose name such land or town lot shall have been taxed, except as hereinafter provided; and when such payment shall not be made within forty-eight hours, such lands and town lots shall be considered as sold to the county. \* \* \*

§ 18. **Disposition of Lands Purchased by County.**—SEC. 22. The county treasurer shall, within ten days after such first Monday in March, make out a list of all lands and town lots sold to the county, verified by affidavit, and the county auditor shall enter the same as county lands, city and town lots, in a book to be kept for that purpose, and taxes shall be regularly assessed thereon, and such lands and city and town lots shall be included in the delinquent list furnished every year, and with the amount of such year's tax added to the delinquent tax and interest and charges

thereon, be offered for sale as other delinquent lands, until sold for the amount of such delinquent taxes, interest, all charges and accrued taxes.

§ 19. **Redemption: Limitation and Manner of.**—SEC. 23. All lands, city and town lots sold to actual purchasers shall be subject to redemption by the former owner thereof, within two years thereafter, on the payment of the delinquent taxes, with fifty per cent. interest, cost, charges and the accruing tax, to the purchaser, who shall receipt therefor, or to the county treasurer for the use of such purchaser, and if no receipt of such purchaser shall be filed with such treasurer, or no such payment be made to him, the holder of the certificate of purchase shall be entitled to receive a deed from the county treasurer, of the land, city or town lots described in such certificate of purchase, which deed shall run in the name of the Territory of Washington, and be signed by such treasurer in his official capacity, and shall be presumptive evidence of the regularity of all former proceedings. \* \* \*

§ 20. **Redemption of Land Sold to County.**—SEC. 24. Lands and city and town lots sold to the county may be redeemed by the former owner thereof by such owner obtaining from the county auditor a certified statement of the amount of all taxes, interest, costs and accrued taxes charged to such land or lots, and paying such amount to the county treasurer, who shall give him a receipt therefor; and the county auditor, on filing such receipt, shall give to such owner a certificate of redemption of such land, city or town lots, signed by him in his official capacity, and sealed with the seal of the board of county commissioners, and shall charge such treasurer with the amount of such receipt, and shall omit such land, city or town lots so redeemed from his list of county lands. \* \* \*

§ 21. **Effect of Errors, etc., in Roll.**—SEC. 26. If, on the assessment rolls or tax lists, schedule or transcripts, there shall be any error in the name of a person taxed, the name may be changed and the tax collected from the person intended, if he be taxable and can be identified by the assessor, treasurer or sheriff, and whenever the treasurer, after the duplicate certificate is delivered to him, shall ascertain that any land or other property is omitted, he shall assess and estimate the tax thereon, and enter the same upon his duplicate assessment roll, and inform the county auditor thereof, who shall charge him with the amount of such tax. If the sheriff, after he has received the transcript of the schedule of unpaid taxes, shall ascertain such omission, he shall assess and estimate such tax and enter the same upon his transcript, and proceed to collect it, and inform the county auditor thereof, who shall charge him with the amount of such tax. \* \* \*

**No. 659.—AN ACT EXEMPTING CERTAIN FIREMEN FROM JURY DUTY, AND FROM PAYING CERTAIN TAXES.<sup>1</sup>**

§ 1. **Who Exempt.**—SECTION 1 *Be it enacted, etc.,* That the officers and members of any fire engine company or hook and ladder company organized in any incorporated city or town in this Territory by virtue of any law of this legislative assembly, or by virtue of any law or ordinance of the corporate authorities of such city or town, be and they are hereby exempted from serving as jurors in any court of record in this Territory and they shall also be exempted from paying any poll taxes and from performing labor upon the public roads, according to the provisions of any general revenue and road law of this Territory: *Provided, however,* That the provisions of this act shall not be construed to exempt said firemen from the payment of any road tax which has been assessed and levied upon

<sup>1</sup> Approved Jan. 23 1864. (See First Bien. Sess. 1867-68, p. 29.) In effect from date.

the taxable property of such firemen, but shall only exempt them from paying the per capita tax: *And provided further*, That any such fire engine company or hook and ladder company shall not exceed sixty in number.

§ 2. **Certificate of Membership.**—SEC. 2. Before any person can avail himself of the benefits conferred by the provisions of the foregoing section, he shall procure a certificate from such officers of the fire organization to which he belongs as shall be designated by the corporate authorities of such city or town, which certificate shall certify that the holder thereof is an active member of such fire engine company or hook and ladder company, and has complied with the rules and regulations prescribed for the government of the said fire department or company.

§ 3. **How Benefits Forfeited.**—SEC. 3. Any person ceasing to be an active member of such company, or failing to comply with the rules and regulations of such fire department or company, shall forfeit his right to enjoy the privileges and benefits conferred by the provisions of this act, and it shall be his duty to surrender his certificate upon demand being made therefor by the officers who issued the same.

§ 4. **Effect of Seven Years' Service.**—SEC. 5. Seven years' continuous service as such active fireman shall entitle him to an exempt certificate, to be issued by the same authority, which certificate shall set forth that the holder thereof has been an active member of the fire organization for seven years continuously, and has during that period conformed to the rules and regulations of the fire department to which he belongs; and the holder of such exempt certificate shall thenceforth be exempt from active duty as such fireman, besides being entitled to all the benefits conferred by the first section of this act.

**No. 660.—AN ACT TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF TERRITORIAL AND COUNTY REVENUE, APPROVED JANUARY 31, A. D. 1867.<sup>1</sup>**

§ 1. **What Taxable—Amount of Tax.**—SECTION 1. *Be it enacted, etc.*, That section first of an act entitled "An act to provide for the assessing and collecting Territorial revenue," approved January 31, 1867,<sup>2</sup> be and the same is hereby amended so as to read as follows: Sec. 1. That all taxes for the support of the government of this Territory, \* \* \* on property valued in equal and ratable proportion and for county expenditures, to be determined by county commissioners, \* \* \* There shall also be levied a tax of four mills upon every dollar's worth of property in this Territory for Territorial purposes, \* \* \* The county commissioners may, in their discretion, levy a county tax of not exceeding eight mills on every dollar's worth of real and personal property for county purposes; at any regular term of the county commissioners' court, the said commissioners may make a special appropriation sufficient to pay the current expenses of the county, which appropriation shall have preference in order of payment from the funds raised by the provisions of this act: *Provided*, That the amount so set apart shall in no case exceed one-half the current revenue of the county: *Provided*, This act shall not interfere with the provisions of any act providing for the assessing and collecting of county revenue in the county of Clark: *And provided*, That this act shall not be so construed as to exempt Clark county from the payment of any part of the Territorial tax assessed against said county under the provisions of this act.

<sup>1</sup> Approved Jan. 30, 1868. (See First Blen. Sess. 1867-68, p. 62.)

<sup>2</sup> See No. 658, § 1, *supra*.



**No. 660.**—AN ACT IN RELATION TO ROADS AND HIGHWAYS IN CERTAIN COUNTIES IN THE TERRITORY OF WASHINGTON, AND DEFINING THE DUTIES OF ROAD SUPERVISORS.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Levy and Collection of Tax.**—SEC. 16. It shall be the duty of the board of county commissioners of the several counties in this Territory to levy and assess a road tax of not less than six nor more than nine dollars on every person liable to perform labor on the public roads, also to assess not less than two nor more than six mills on every dollar's worth of property as returned by the county assessor, which tax shall be assessed and collected in labor, at the rate of three dollars per day, or with the county, Territorial or school tax, in the manner hereinafter described: *Provided*, That the county commissioners of Walla Walla county shall not levy and assess, as a road tax, any greater sum than one mill on every dollar's worth of property as returned by the county assessor of said county.

SEC. 36 All acts or parts of acts in relation to roads and highways, heretofore passed are hereby repealed: *Provided*, That this act shall not apply to the counties of Stevens, Pacific, King, Snohomish, Whatcom, Island, Jefferson, Kitsap, Pierce, Clallam and Mason.

<sup>1</sup> Approved Jan. 30, 1868. (See First Bien. Sess. 1867-68, p. 3.) In effect from date.

**No. 661.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING TERRITORIAL AND COUNTY REVENUE," APPROVED JANUARY, 1867.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That an act entitled "An act to provide for the assessing and collecting Territorial and county revenue," approved January 31st, 1867,<sup>2</sup> be and the same is hereby amended as follows, to wit: Wherever the word "November" occurs in said act, strike out the same and insert in place thereof the word "January."

<sup>1</sup> Approved Oct. 27, 1869. (See Second Bien. Sess. 1869, p. 258.) In effect from date.

<sup>2</sup> See No. 658, *supra*.

**No. 662.**—AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS, AND DEFINING THEIR DUTIES.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Regular Sessions.**—SEC. 5. The board of county commissioners in the several counties in this Territory may hold regular sessions at the seat of justice of their respective counties, commencing on the first Mondays of February, May, August and November, at each of which they may transact any business which may be required by law; but counties so desiring may omit the February and August terms.

§ 3. **Powers and Duties.**—SEC. 11. The several boards of county commissioners are authorized and required—(1) To provide for the erection and repairing of court houses, jails and other necessary public buildings

<sup>1</sup> Approved Dec. 1, 1869. (See Second Bien. Sess. 1869, p. 303.)

for the use of the county. \* \* \* (4) To fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law. \* \* \* (6) To have the care of the county property and the management of the county funds and business, and in the name of the county to prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law.

\* \* \* \* \*

§ 4. **Inspection and Acceptance of Assessment Roll.**—SEC. 17. The board of county commissioners, at their session in May in each year, shall receive and inspect the assessment roll returned by the assessors, and if found correct it shall be accepted by the board, signed by the chairman and attested by the clerk, and cause the same to be filed in the office of the county auditor, where it shall remain as a matter of record, and shall be a guide for future assessors, so far as the same shall remain correct.

\* \* \* \* \*

§ 5. **No Special Tax: Exception.**—SEC. 21. The board of county commissioners of the several counties in this Territory shall have no power to levy a special tax for county purposes, except in the manner hereinafter provided, unless otherwise specially ordered by special laws.

\* \* \* \* \*

§ 6. **Special Tax to be Submitted to Vote.**—SEC. 22. When in the opinion of the county commissioners of any county the public good requires a court house, jail or other county building, they shall estimate the cost thereof and submit the same to the people of their county at the next general election, notice thereof being given at the same time and place as for other elections, when if a majority of the voters of such county shall vote in favor of such special tax, the commissioners shall assess and cause to be collected such tax in the same manner as other county taxes are collected.

\* \* \* \* \*

§ 7. **Repealing Clause.**—SEC. 30. All acts and parts of acts heretofore passed defining the duties of county commissioners, in conflict with the provisions of this act, be and the same are hereby repealed.

**No. 663.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>**

CHAPTER I.

§ 1. **What Taxable.**—SECTION 1. *Be it enacted, etc.,* That all taxes for the support of the government of this Territory shall be assessed on \* \* \* property valued in equal and rateable proportion; and all property, real and personal, within this Territory, not expressly exempted therefrom, shall be subject to taxation in the manner provided by law.

§ 2. **"Real Property," "Land," Defined.**—SEC. 2. The terms "real property" and "land," wherever used in this act, shall be held to mean and include not only the land itself, whether laid out into town lots or otherwise, with all things contained therein, but also all buildings, structures, improvements, trees and other fixtures of whatever kind thereon, and all rights and privileges belonging or in any wise appertaining thereto.

\* \* \* \* \*

§ 3. **What Exempt.**—SEC. 4. The following property shall be exempt from taxation: (1) All property, real and personal, of the United States and of this Territory; (2) all public or corporate property of the several counties, cities, villages, towns and school districts in this Territory used

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 176.)



or intended for corporate purposes; (3) the personal property of all literary, benevolent, charitable and scientific institutions incorporated within this Territory, and such real estate belonging to such institutions as shall be actually occupied for the purposes for which they were incorporated; (4) all houses of public worship, and the lots on which they are situated, and the pews or slips and furniture therein, and all burial grounds, tombs and rights of burial; but any part of any building, being a house of public worship, which shall be kept or used as a store or shop, or for any other purpose, except for public worship or for schools, shall be taxed upon the cash valuation thereof the same as personal property, to the owner or occupant, or to either; and the taxes shall be collected thereon in the same manner as taxes on personal property; (5) all public libraries and the real and personal property belonging to or connected with the same; (6) the property of all Indians who are not citizens, except land held by them by purchase.

## CHAPTER II.

**§ 4. When and to Whom Shall be Assessed.**—SEC. 6. All lands shall be assessed in the county in which the same shall lie, and every person shall be assessed in the county where he resides when the assessment is made for all real and personal property then owned by him within such county; but land owned by one person and occupied by another may be assessed in the name of the owner or occupant; and unoccupied land, if the owner is unknown, may be assessed as such without inserting the name of any owner.

**§ 5. How Property of Private Corporations Assessed.**—SEC. 7. The real estate of incorporated companies liable to taxation, shall be assessed in the county in which the same shall lie, in the same manner as the real estate of individuals.

**§ 6. How Estate of Decedent Assessed.**—SEC. 8. The undivided estate of any deceased person may be assessed to the heirs or devisees of such person, unless occupied by some other person to whom it may be assessed, without designating them by name, until they shall have given notice to the assessor of the division of the estate, and the names of the several heirs or devisees; and each heir and devisee shall be liable for the whole of such tax, and shall have a right to recover of the other heirs and devisees their respective proportions thereof, when paid by him.

\* \* \* \* \*

## CHAPTER III.

**§ 7. Time of Assessment.**—SEC. 15. Between the first Monday of February and the last Monday in April in each year, the assessor in each county shall ascertain by diligent inquiry the names of all persons liable to taxation in his county, and also all the taxable personal property and all taxable real estate therein, and make out an assessment roll of all taxable property, and appraise the same according to the provisions of the statutes relating thereto.

\* \* \* \* \*

**§ 8. What Assessment Roll to Contain.**—SEC. 17. The assessor shall set down in an assessment roll, to be prepared by himself, in separate columns, and according to the best information he can obtain—(1) the names of all the taxable persons in his county; (2) a description of each tract or parcel of land to be taxed, specifying under separate heads the township, range and section in which the land lies; or if divided into lots and blocks, then the number of the lot and block; (3) the number of acres and parts of an acre, as near as the same can be ascertained, unless the land be divided into blocks and lots, (4) the full cash value of each parcel of land taxed; \* \* \* (5) the total valuation of all property taxed, real and personal.

§ 9. **Assessment of Town Lots.**—SEC. 18. When lots are situated in any city, village or town, a plat of which shall have been recorded, the city, village or town in which the same are situated shall be specified in the assessment roll.

§ 10. **Assessment as Trustee, etc.**—SEC. 19. When any person is assessed as trustee, guardian, executor or administrator, a designation of his representative character shall be added to his name, and such assessment shall be entered in a separate line from his individual assessment, and he shall be assessed for the real estate held by him in such representative character at the full value thereof, \* \* \*

§ 11. **In What Case Land to be Described by Metes and Bounds.**—SEC. 20. If the land assessed be less or other than a subdivision according to the United States survey, unless the same be divided into lots and blocks, so that it can be definitely described, it shall be described by giving the boundaries thereof, or in such other manner as to make the description certain.

§ 12. **Initial Letters, etc., May be Used.**—SEC. 21. It shall be sufficient to describe land in all proceedings relative to assessing, advertising or selling the same for taxes, by initial letters, abbreviations and figures to designate the township, range, section or part of a section, and also the number of the lots and blocks.

§ 13. **How Lands of Unknown Owner Assessed.**—SEC. 22. Unoccupied lands, liable to taxation, when the name of the owner is unknown, shall be described, and the value thereof set down in the assessment roll, in a part thereof separate from the other assessments, in the same manner that lands of residents are required to be described, and the value thereof designated.

§ 14. **Form of Roll.**—SEC. 23. The assessment roll shall be made out in tabular form, in separate columns with appropriate heads, after the manner specified below, with such additional columns as may be deemed necessary, varying the same as circumstances may require, but as nearly as convenient in the following form:

ASSESSMENT ROLL

For the County of \_\_\_\_\_, and Territory of Washington, for the year 18—, containing all the taxable property, real and personal, in said county.

Names of persons taxed.	Description of land.	Township.	Range, E. or W.	Number of acres.	Valuation of real estate.	Valuation of personal property.	Total valuation of all property.	Amount of taxes.	Remarks.
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Lots in the city (town or village) of \_\_\_\_\_, described according to the map thereof in the office of the county auditor of said county.

Names of persons taxed.	Number of lots.	Block.	Valuation of each lot.	Valuation of all the lots.	Valuation of personal property.	Total valuation.	Amount of tax.	Remarks.
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CHAPTER IV.

§ 15. **Correction, etc., of Assessment.**—SEC. 24. The board of county commissioners of each county shall, at its term in May in each year, examine the assessment roll of its county, and shall have power to correct the same, make alterations in the description of lands or other property upon such roll, when it shall be necessary to render such description con-

formable to the requirements of this chapter; and may make any other alterations or corrections in such roll as it shall deem necessary to make the same conform to the requirements of this chapter.

**§ 16. Determination of Tax.**—SEC. 25. The board of county commissioners of each county shall, at its term in May in each year, estimate and determine the amount of money to be raised in such county for county purposes, and apportion such amount, together with the amount of Territorial and school tax required by law to be raised in its county, according to the valuation of taxable property in the county, for a year, and such determination shall be entered at large in its records.

**§ 17. Levy.**—SEC. 26. For the purpose of raising a revenue for county purposes, the county commissioners of each county in the Territory shall, at its term in May in each year, levy a tax on all taxable property in its county, which tax shall be sufficient in amount to defray the expenses of the county: *Provided*, The county tax shall not exceed eight mills on every dollar's worth of taxable property in the county for any one year.

**§ 18. Amount of Tax.**—SEC. 27. That the annual tax hereafter to be levied in this Territory, to defray the current expenses of the Territory, shall be three mills on the dollar of all taxable property, and a poll tax of two dollars shall be assessed on and paid by each and every male inhabitant of the county over twenty-one and under fifty years of age, the same to be applied to county purposes.

\* \* \* \* \*

**§ 19. Duplicate of Roll.**—SEC. 30. The county auditor shall, within fifteen days after the adjournment of the May session of the county commissioners, make out two certificates of the several amounts apportioned to be assessed upon the taxable property of the county, for Territorial, county and school purposes, \* \* \* one of which he shall deliver or cause to be delivered to the county treasurer, and the other, with a transcript of the assessment roll aforesaid, shall be delivered to the sheriff of the county, to which certificate and assessment roll thus delivered shall be attached a warrant in the name of the United States, under the hand of the county auditor and with his seal of office thereto attached, commanding the said sheriff to collect the taxes charged in such transcript by demanding payment of the persons charged therein, and making sale of the goods and chattels mentioned in such transcript, or any other goods and chattels of the respective persons charged therein, if necessary; \* \* \*

#### CHAPTER V.

**§ 20. Sheriff Ex-Officio Tax Collector.**—SEC. 31. That the sheriff of each county shall be tax collector thereof.

**§ 21. Warrant for Collection: Substance of.**—SEC. 32. That the county auditor of each county in this Territory shall, within fifteen days after the apportionment of taxes, make a certificate of the several amounts apportioned to be assessed upon the taxable property of the county for Territorial, county and school purposes, and deliver the same to the sheriff of the county, together with a transcript of the assessment roll, to which shall be attached a warrant in the name of the United States, under his hand and seal of office, commanding the said sheriff to collect the taxes charged in said list by demanding payment of the persons charged therein, and making sale of the goods and chattels of the respective persons named in said list, if necessary; and that he pay over all moneys collected by him by virtue of said warrant, to the county treasurer, and return said warrant, together with the list aforesaid and an account of his acts thereon, to the county auditor on or before the first Monday of January next ensuing the date thereof \* \* \*

**§ 22. Manner of Collection—Notice—Time for Payment.**—SEC. 33. It shall be the duty of the sheriff, upon receipt of the tax roll from the



county auditor, immediately thereafter to give notice by posting up written or printed hand bills, three in each precinct within his county, to the effect that he or his deputy will attend at the usual places of voting in each election precinct in his county, for the purpose of collecting taxes; the meeting not to be less than one day in each precinct, and notice to be given fifteen days before such meeting, which notice shall distinctly state the day and hour of meeting and adjournment; and if any person residing in such precinct shall fail to attend at such time and place and pay his or her taxes, such delinquent may pay the same at any time before the first day of January, at the county seat, to the sheriff or his deputy; and if he fail to pay on or before said date as aforesaid, and the sheriff visits his residence, the sheriff may collect of such person, for his own use, ten cents per mile, going and returning.

\* \* \* \* \*

§ 23. **Double Assessment.**—SEC. 44. Whenever any sheriff discovers that any land has been assessed more than once for the same year, he shall only collect the tax justly due thereon, and shall make return of the balance as double assessment, and he shall be credited therefor by the county commissioners.

§ 24. **Return of Sheriff: Substance of.**—SEC. 45. If any of the taxes mentioned in the tax list annexed to his warrant, either on real or personal property, shall remain unpaid, and the sheriff shall be unable to collect the same, he shall make out a statement of the taxes so remaining unpaid, distinguishing by setting down separately such as are on real and such as are on personal estate, with a full and correct description of such real estate from his tax roll, and the name of the person taxed, if therein specified, and submit the same by the first Monday in February after the date of the tax list to the county commissioners; he shall also include in such statement a description of any land doubly assessed, and the amount of taxes thereon, and the county auditor shall carefully compare such statement with the tax roll to ascertain that the same is correct.

\* \* \* \* \*

§ 25. **Warrant for Collection: Substance of.**—SEC. 51. It shall be the duty of the county auditor of each county, after the return of delinquent taxes as made by the sheriff thereof, within fifteen days after the first Monday in February of each year, to make from said delinquent tax roll a true and correct list of the taxes returned as unpaid, and a correct description of the lands or town lots, if the same can be made, and to whom such taxes are charged, and deliver the same to the sheriff of the county, with a warrant attached thereto, under his hand and his seal of office, in the name of the United States, commanding said sheriff to levy upon the goods and chattels of such delinquent taxpayer and if none be found, then upon the goods and chattels of such delinquent taxpayer, and if none be found, then upon the real property as set forth in said tax list, or so much thereof as shall satisfy the amount of taxes so charged, with costs and expenses, and that said sheriff be required to pay over all moneys so collected by the first Monday in May thereafter.

§ 26. **Warrant Deemed an Execution.**—SEC. 52. A warrant for the purpose of collecting delinquent taxes shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation upon whom such taxes are levied or charged on the roll, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

§ 27. **If Personal Property Insufficient to Satisfy Warrant, Realty to be Subjected.**—SEC. 56. If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it must be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof

to satisfy such warrant, including fees of officer and all expenses of sale and executing the warrant.

§ 28. **If Owner Absent, etc., How Warrants Executed.**—SEC. 54. In case of any delinquent tax levied upon real property, the owner being unknown or absent, or having conveyed the same to another by deed or otherwise, the warrant shall be executed by levying upon any property the person may own, for the amount of taxes levied on all his property in the county.

§ 29. **How Certain Taxes Hereafter Levied, Collected.**—SEC. 55. All taxes hereafter levied by any county in this Territory, and remaining unpaid or delinquent, may, by order of the county commissioners, be collected from the persons, firm or corporation, whether known or unknown, against whom the same were charged or levied, by warrant, in the manner and with the effect provided in this chapter of delinquent taxes.

§ 30. **Certificate of Sale: Substance of.**—SEC. 56. When real property is sold for delinquent taxes, the person executing the warrant must immediately make and deliver a certificate of sale to the purchaser, which shall particularly describe the property sold, and shall state that the same is subject to redemption, as provided by law: *Provided*, The purchaser shall be entitled to a deed to said property at the expiration of the time for redemption, if the same be not redeemed according to law, on presenting the certificate of sale to the sheriff.

§ 31. **Redemption: Limitation and Manner of.**—SEC. 57. Redemption is made by the payment of the purchase money, and twenty-five per centum additional, together with interest on the purchase money from the date of sale to the time of payment, at legal rate, and the amount of any taxes which the purchaser may have paid upon the property. The real estate of minor heirs, who at the time of sale had no guardian or other person to take care of their interests, may be redeemed by them within one year after arriving at majority, and the purchaser, if he have received a deed, shall re-convey the premises, upon payment by the heir as required of other redemptioners.

§ 32. **Force and Effect of Sale.**—SEC. 58. A sale of real property, under the provisions of this chapter conveys to the purchaser, subject to redemption as herein provided, all the estate or interest therein of the owner, whether known or unknown, together with all the rights and appurtenances thereto belonging.

§ 33. **Certificate Shall State Who May Redeem.**—SEC. 59. The person executing such warrant shall make a certificate of sale of the property for the property sold thereon to the purchaser, stating therein that the same is made subject to redemption within three years from the date of such sale; the owner or his successor in interest, or any person having a lien or judgment, decree or mortgage on any part thereof separately sold, may redeem the same upon the conditions provided in section fifty-seven of this chapter.

§ 34. **Who May Redeem.**—SEC. 60. Real property sold for delinquent taxes, as provided in this chapter, may be redeemed by the owner or his successor in interest, or by any person having a lien by judgment, decree or mortgage on such property, or any part thereof separately sold, within three years from the date of the certificate therefor, and upon the terms and conditions and with the effects as provided in this chapter.

\* \* \* \* \*

§ 35. **Certificate to Express True Consideration.**—SEC. 62. The certificate of sale to the purchaser must express the true consideration thereof, which is the amount paid by the purchaser, and the return of the officer executing the warrant must specify the amount for which each lot or parcel of land sold, and the name of the purchaser.



§ 36. **Manner and Notice of Sale.**—SEC. 63. All sales made for delinquent taxes, as provided in this chapter, upon real estate, must be made as is otherwise made in selling real estate upon an execution, at the court house door, between the hours of ten o'clock A. M. and four P. M. in the daytime, and notice of such sale shall be given in some public newspaper published in the county where the property is situated, or in case no paper is published in the county, then in the paper published nearest the place of sale in the Territory, and in general circulation in the county, by advertisement for four consecutive weeks before such sale, describing accurately the lots or lands to be sold, and that they are to be sold for taxes due thereon.

§ 37. **Scope of This Act.**—SEC. 82. Nothing in this act shall be so construed as to interfere with the provisions of any act passed at the present session of the legislative assembly allowing the levy of a special tax in any county in this Territory, but the manner of collecting such special taxes shall be as hereinbefore provided.

§ 38. **Lien of Taxes.**—SEC. 84. All taxes on real property levied under the provisions of this act shall become and remain perpetual liens thereupon against all persons.

§ 39. **Collection of Delinquent Taxes Now Due.**—SEC. 85. All delinquent taxes now due and unpaid shall be collected in accordance with existing laws.

**No. 664.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS AND DEFINING THEIR DUTIES," APPROVED DECEMBER 1, 1869.<sup>1</sup>**

§ 1. **Inspection and Acceptance of Assessment Roll—Board of Equalization.**—SECTION 1. *Be it enacted, etc.,* That section seventeen of the act to which this is amendatory<sup>2</sup> shall be so amended as to read as follows: "Sec. 17. The board of county commissioners, at their session in May in each year, shall receive, examine and inspect the assessment roll returned by the assessors. They shall also, at said term, sit as a board of equalization, and shall continue in session from time to time until said business of equalization is disposed of. *Provided, however,* They shall not sit after the first Monday in June. The said board of equalization shall have power to determine all complaints made in regard to the assessed valuation of any property, and may change or correct any valuation, either by adding thereto or deducting therefrom. After the final equalization and correction of the assessment roll, it shall be accepted by the board, signed by the chairman, attested by the clerk and filed in the office of the county auditor, where it shall remain as a matter of record, and shall be a guide to future assessors so far as the same shall remain correct."

<sup>1</sup> Approved Nov. 27, 1871. (See Third Blen. Sess. 1871, p. 100.) In effect from date.

<sup>2</sup> See No. 662, § 4, *supra*.

**No. 665.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>**

§ 1. **What Taxable.**—SECTION 1. *Be it enacted, etc.,* That all taxes for the support of the government of this Territory shall be assessed on polls

<sup>1</sup> Approved Nov. 29, 1871. (See Second Blen. Sess. 1871, p. 36.)

and on property valued in equal and rateable proportion; and all property, real and personal, within this Territory not expressly exempted therefrom shall be subject to taxation in the manner provided by law.

§ 2. "Real Property," "Land," Defined.—SEC. 2. The terms "real property" and "land," wherever used in this act, shall be held to mean and include not only the land itself, whether laid out into town lots or otherwise, with all things contained therein, but also all buildings, structures, improvements, trees and other fixtures of whatever kind thereon, and all rights and privileges belonging or in any wise appertaining thereto.<sup>2</sup>

\* \* \* \* \*

§ 3. What Exempt.—SEC. 4. The following property shall be exempt from taxation: (1) All property, real and personal, of the United States and of this Territory. (2) All public or corporate property of the several counties, cities, villages, towns and school districts in this Territory used or intended for corporate purposes. (3) The personal property of all literary, benevolent, charitable and scientific institutions incorporated within this Territory, and such real estate belonging to such institutions as shall be actually occupied for the purposes for which they were incorporated. (4) All houses of public worship and the lots on which they are situated, and the pews or slips and furniture therein. All lodge buildings and furniture of any fraternity in this Territory, and grounds upon which said buildings stand, shall be exempt the same as churches, and all burial grounds, tombs and rights of burial; but any part of any building, being a house of public worship, which shall be kept or used as a store or shop,<sup>3</sup> or for any other purpose except for public worship or for schools, shall be taxed upon the cash valuation thereof the same as personal property, to the owner or occupant, or to either, and the taxes shall be collected thereon in the same manner as taxes on personal property. (5) All public libraries, and the real and personal property belonging to or connected with the same. (6) The property of all Indians who are not citizens, except land held by them by purchase. \* \* \*

#### CHAPTER II.

§ 4. Where and to Whom Shall be Assessed.—SEC. 6. All lands shall be assessed in the county in which the same shall lie, and every person shall be assessed in the county where he resides, when the assessment is made for all real and personal property then<sup>4</sup> owned by him within such county; but land owned by one person and occupied by another may be assessed in the name of the owner or occupant; and unoccupied land, if the owner is unknown, may be assessed as such without inserting the name of any owner.

§ 5. How Property of Private Corporation Assessed.—SEC. 7. The real estate of incorporated companies liable to taxation shall be assessed in the county in which the same shall lie, in the same manner as the real estate of individuals.

§ 6. How Estate of Decedent Assessed.—SEC. 8. The undivided estate of any deceased person may be assessed to the heirs or devisees of such person, unless occupied by some other person to whom it may be assessed, without designating them by name, until they shall have given notice to the assessor of the division of the estate, and the names of the several heirs or devisees; and each heir and devisee shall be liable for the whole of such tax, and shall have a right to recover of the other heirs and devisees their respective portions thereof, when paid by him.

<sup>2</sup> \* <sup>4</sup> See No. 666, *infra*.

## CHAPTER III.

§ 7. **Time of Assessment.**—SEC. 15. Between the first Monday of January and the last Monday in April\* in each year, the assessor in each county shall ascertain, by diligent inquiry, the names of all persons liable to taxation in his county,\* and also all the taxable personal property and all taxable real estate therein, and make out an assessment roll of all taxable property, and appraise the same according to the provisions of the statutes relating thereto.

\* \* \* \* \*

§ 8. **What Assessment Roll to Contain.**—SEC. 17. The assessor shall set down in an assessment roll to be prepared by himself, in separate columns, and according to the best information he can obtain—(1) The names of all the taxable persons in his county; (2) a description of each tract or parcel of land to be taxed, specifying under separate heads the township, range and section in which the land lies, or if divided into lots and blocks, then the number of the lot and block; (3) the number of acres and parts of an acre, as near as the same can be ascertained, unless the land be divided into blocks and lots; (4) the full cash value of each parcel of land taxed; \* \* \* (6) the total valuation of all property taxed, real and personal.

§ 9. **Assessment of Town Lots.**—SEC. 18. When lots are situated in any city, village or town, a plat of which shall have been recorded, the city, village or town in which the same are situated shall be specified in the assessment roll.

§ 10. **Assessment as Trustee, etc.**—SEC. 19. When any person is assessed as trustee, guardian, executor or administrator, a designation of his representative character shall be added to his name, and such assessment shall be entered in a separate line from his individual assessment, and he shall be assessed for the real estate held by him in such representative character, at the full value thereof, and for all personal property held by him in such representative character.

§ 11. **In What Case Land to be Described by Metes and Bounds.**—SEC. 20. If the land assessed be less or other than a subdivision according to the United States survey, unless the same be divided into lots and blocks, so that it can be definitely described, it shall be described by giving the boundaries thereof, or in such other manner as to make the description certain.

§ 12. **Initial Letters, etc., May be Used.**—SEC. 21. It shall be sufficient to describe lands in all proceedings relative to assessing, advertising or selling the same for taxes, by initial letters, abbreviations and figures to designate the township, range, section or part of section, and also the number of the lots and blocks.

§ 13. **How Lands of Unknown Owner Assessed.**—SEC. 22. Unoccupied lands liable to taxation, when the name of the owner is unknown, shall be described and the value thereof set down in the assessment roll, in a part thereof separate from the other assessments, in the same manner that lands of residents are required to be described and the value thereof designated.

§ 14. **Form of Roll.**—SEC. 23. The assessment roll shall be made out in tabular form, in separate columns with appropriate heads, after the manner specified below, with such additional columns as may be deemed necessary, varying the same as circumstances may require, but as nearly as convenient in the following form:

\* \* See No. 666, *infra*.

## ASSESSMENT ROLL

For the County of ———, and Territory of Washington, for the year 18—, containing all the taxable property, real and personal, in said county.

Names of persons taxed.	Description of land.	Section.	Township.	Range, E. or W.	Number of acres.	Valuation of real estate.	Valuation of personal property.	Total valuation of all property.	Amount of taxes.	Remarks.
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Lots in the city (town or village) of ———, described according to the map thereof in the office of the county auditor of said county.

Names of persons taxed.	Number of lots.	Blocks.	Valuation of each lot.	Valuation of all the lots.	Valuation of personal property.	Total valuation.	Amount of tax.	Remarks.
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## CHAPTER IV.

§ 15. **Correction, etc., of Assessment Roll.**—SEC. 24. The board of county commissioners of each county shall, at its term in May<sup>7</sup> in each year, examine the assessment roll of its county, and shall have power to correct the same, make alterations in the description of lands or other property upon such roll, when it shall be necessary to render such description conformable to the requirements of this chapter, and may make any other alterations or corrections in such roll as it shall deem necessary to make the same conform to the requirements of this chapter.

§ 16. **Determination of Tax.**—SEC. 25. The board of county commissioners of each county shall, at its term in May<sup>7</sup> in each year, estimate and determine the amount of money to be raised in such county for county purposes, and apportion such amount, together with the amount of Territorial and school tax required by law to be raised in its county, according to the valuation of taxable property in the county for a year, and such determination shall be entered at large in its records.

§ 17. **Levy.**—SEC. 26. For the purpose of raising a revenue for county purposes, the county commissioners of each county in the Territory shall, at its term in May<sup>7</sup> in each year, levy a tax on all taxable property in its county, which tax shall be sufficient in amount to defray the expenses of the county: *Provided*, The county tax shall not exceed eight mills on every dollar's worth of taxable property in the county for any one year.

§ 18. **Amount of Tax.**—SEC. 27. That the annual tax hereafter to be levied in this Territory to defray the current expenses of the Territory, shall be four mills on the dollar of all taxable property, \* \* \*

§ 19. **Duplicate Roll.**—SEC. 30. The county auditor shall, within fifteen days after the adjournment of the May<sup>7</sup> session of the board of county commissioners, estimate the amount of taxes due on the valuation of property in his county, and shall make out a duplicate assessment roll, which shall contain, in addition thereto, columns showing the amount of the Territorial, school and county tax, and the total amount of each column of valuation, and shall deliver a copy of such roll to the county treasurer, and charge such treasurer with the amount of such taxes.

§ 20. **When Taxes Payable.**—SEC. 31. All persons liable to taxation may, before the first day of January in each year, pay their taxes to the county treasurer; \* \* \*

<sup>7</sup> See No. 666, *infra*.



§ 21. **Warrant for Collection: Substance of.**—SEC. 32. The county treasurer shall, within ten days after the expiration of the time allowed for the payment of taxes, make out a schedule of unpaid taxes in form of a duplicate assessment roll, verified by affidavit, and deliver the same to the county auditor, who shall add ten per cent. to the amount of such unpaid taxes, and forthwith issue a transcript of such schedule, with the ten per cent. added to such taxes, with a warrant attached thereto in the name of the United States, under his hand and seal of the board of county commissioners, to the sheriff of the county, commanding him to collect the taxes charged in such transcript by demanding payment of the persons chargeable therein, and making sale of the goods and chattels and other personal property of such persons, if necessary, and to return the same to such auditor on or before the first of May next ensuing thereafter, and such auditor shall charge such sheriff with the amount of money to be collected in such transcript.

§ 22. **Manner of Collection—Notice.**—SEC. 33. The sheriff shall proceed to call once on each person named in the transcript, if he can be found in the county, and collect the taxes charged as provided in this act, and if not then paid, or the person be not found, shall levy the same on the goods and chattels and other personal property of such person, and give six days' notice of the time and place of sale and the property to be sold, by posting up advertisements in four public places in the county, and sell the same at public auction, \* \* \*

§ 23. **Return of Sale.**—SEC. 34. The sheriff shall \* \* \* return to the auditor with his transcript and warrant, on or before the first Monday of May ensuing, a delinquent list of all taxes remaining unpaid, setting down such as are due and unpaid on lands or city or town lots, with a proper description thereof, and such as are due and unpaid by any person on personal property, verified by affidavit, \* \* \*

§ 24. **When Taxes Delinquent.**—SEC. 35. From the date of the sheriff's return, all taxes unpaid are delinquent and shall draw interest at the rate of twenty-five per cent. per annum, and taxes on land, city or town lots, steamboats and other vessels are hereby made a perpetual lien thereupon against all persons.

§ 25. **Notice of Sale—Substance and Manner of.**—SEC. 36. The county auditor shall, within twenty days, make out two lists of such lands, city and town lots returned as delinquent, with the amount of taxes due thereon, and deliver one list to the county sheriff, who shall advertise such list in [some newspaper in the county, or if there be no such newspaper in the county, then in some newspaper of general circulation in the Territory,\*] for three weeks successively before the fourth Monday in July, and shall also post such list in six public places in his county, for three weeks before said fourth Monday in July, and shall proceed to sell at public auction to the highest bidder, on the fourth Monday in July, between the hours of ten o'clock A. M. and five o'clock P. M., at the county seat, all delinquent lands and city and town lots on which the unpaid tax and accruing interest and costs shall not have been paid before such time, and shall continue such sale from day to day until all such lands and town lots shall be sold, or shall have been twice offered for sale, \* \* \*

§ 26. **If Lands Not Sold, County Shall Purchase.**—SEC. 37. When any lands or town lots cannot be sold for the amount of taxes, interest and charges thereon, such lands and town lots shall be passed over and re-offered for sale before the close of such sale, and if the same cannot be then sold for the amount, such lands and town lots shall be purchased by the county treasurer for the amount due thereon as county property.

\* See No. 666, *infra*. The brackets shown do not appear in this act; they are inserted for convenient reference.



§ 27. **Certificate of Purchase: Force and Effect.**—SEC. 38. The county treasurer shall, on the payment to him within forty-eight hours of the amount bid on any land, city or town lots, make out a certificate of purchase of such land or lot, in the name of the Territory of Washington, signed by such treasurer in his official name, to such purchaser, which shall be held to convey all right, title and interest of the person in whose name such land or town lots shall have been taxed, except as hereinafter provided; and when such payment shall not be made within forty-eight hours, such lands and town lots shall be considered as sold to the county. \* \* \*

§ 28. **Disposition of Lands Purchased by County.**—SEC. 39. The county treasurer shall, within ten days after such fourth Monday in July, make out a list of all lands and town lots sold to the county, verified by affidavit, and the county auditor shall enter the same as county lands, city and town lots, in a book to be kept for that purpose, and taxes shall be regularly assessed thereon [and such lands and city and town lots shall be included in the delinquent list furnished every year, and with the amount of such year's tax added to the delinquent tax, and interest and charges thereon, be offered for sale as other delinquent lands until sold for the amount of such delinquent taxes, interest, all charges and accrued taxes].\*

§ 29. **Redemption: Limitation and Manner of.**—SEC. 40. All lands, city and town lots sold to actual purchasers shall be subject to redemption by the former owner thereof within two years thereafter, on the payment of the delinquent taxes, with 25 per cent. per annum interest, cost, charges and the [accruing tax to the purchaser],<sup>10</sup> who shall receipt therefor, or to the county treasurer for the use of such purchaser, and if no receipt of such purchaser shall be filed with such treasurer, or no such payment be made to him, the holder of the certificate of purchase shall be entitled to receive a deed from the county treasurer, of the land, city or town lots described in such certificate of purchase, which deed shall run in the name of the Territory of Washington, and be signed by such treasurer in his official capacity, and shall be presumptive evidence of the regularity of all former proceedings, and the treasurer shall be entitled to receive a fee of three dollars for every such deed.

§ 30. **Redemption of Land Sold to County.**—SEC. 41. Lands and city and town lots sold to the county may be redeemed by the former owner thereof, by such owner obtaining from the county auditor a certified statement of the amount of all taxes, interest, costs and accrued taxes charged to such land or lots, and paying such amount to the county treasurer, who shall give him a receipt therefor, and the county auditor, on filing such receipt, shall give to such owner a certificate of redemption of such land, city or town lots, signed by him in his official capacity and sealed with the seal of the board of county commissioners, and shall charge such treasurer with the amount of such receipt, and shall omit such land, city or town lots so redeemed from his list of county lands. \* \* \*

§ 31. **Effect of Errors, etc., in Roll.**—SEC. 43. If on the assessment rolls or tax lists, schedule or transcripts, there shall be any error in the name of a person taxed, the name may be changed and the tax collected from the person intended, if he be taxable and can be identified by the assessor, treasurer or sheriff, and whenever the treasurer, after the duplicate certificate is delivered to him, shall ascertain that any land or other property is omitted, he shall assess and estimate the tax thereon, and enter the same upon his duplicate assessment roll and inform the county auditor thereof, who shall charge him with the amount of such tax. If

\* 10 See No. 666, *infra*. The brackets shown do not appear in this act; they are inserted for convenient reference.

the sheriff, after he has received the transcript of the schedule of unpaid taxes, shall ascertain such omission, he shall assess and estimate such tax and enter the same upon his transcript and proceed to collect it, and inform the county auditor thereof, who shall charge him with the amount of such tax.

\* \* \* \* \*  
 § 32. **Saving Clause.**—SEC. 50. Nothing in this act shall be so construed as to interfere with the provisions of any act allowing the levy of a special tax in any county in this Territory, but the manner of collecting such special taxes shall be as hereinbefore provided.

§ 33. **Repealing Clause.**—SEC. 51. All acts and parts in conflict with the provisions of this act be and the same are hereby repealed.

§ 34. **Date in Effect.**—SEC. 52. This act to take effect and be in force from and after the first day of January, A. D. 1872.<sup>11</sup>

<sup>11</sup> See No. 666, *infra*.

**No. 665†.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN RELATION TO ROADS, FERRIES, BRIDGES, AND TRAVEL ON PUBLIC HIGHWAYS," APPROVED DECEMBER 2, 1869.<sup>1</sup>

§ 1. **Amount and Manner of Assessment, and Collection of Road Taxes.**—SECTION 1. *Be it enacted, etc.,* \* \* \* That section 21 be amended to read as follows: "Sec. 21. It shall be the duty of every supervisor of roads, on or before the first Monday in May, to obtain the names and make out in alphabetical order a list of all persons liable to perform labor on the public roads residing within his road district, and file the same with the county auditor, whose duty it shall be to affix to each name the amount of taxable property and the amount of road tax assessed against each person residing or owning real and personal property therein, and issue his warrant for the collection thereof." That section 22 be amended to read as follows: "Sec. 22. It shall be the duty of the board of county commissioners of the several counties, at their May session, to levy and assess a road tax of four dollars on every male person liable to perform labor on the public roads, between the ages of twenty-one and fifty years, except persons that are a public charge or too infirm to perform labor; also to assess not less than two or more than five mills on every dollar's worth of property as returned by the county assessors, which tax shall be assessed and collected in labor at the rate of two dollars per day, unless he shall elect to pay the same in money: *Provided, however,* That all road taxes assessed on the property of non-residents of the county may be paid to the treasurer of the county at any time before the first Monday of August of each year." \* \* \* Section 24 of said act to which this is amendatory shall be amended so as to read as follows: "Sec. 24. The supervisor must notify every person within his road district, subject to road labor as aforesaid, to perform the work assessed on the public roads within his district, and if any person subject to road labor aforesaid shall, after three days' notice, either personally or by writing left at his usual place of abode by the supervisor or by any other person by his direction, neglect or refuse to attend by himself or suitable substitute, at the time and place designated by the supervisor, or having attended shall refuse to obey the instructions of the supervisor, or shall pass his time in idleness or inattention to the labor or duties assigned him, every such delinquent shall thereby become liable to the supervisor for the amount of his road tax in money, and such supervisor shall proceed at once to collect the same by levy and sale of the property, real and personal, of such delin-

<sup>1</sup> Approved November 29, 1871. (See Fourth Bien. Sess. 1871, p. 30.) All conflicting acts and parts of acts repealed. If effect from date. Secs. 21, 22 and 24 of the act to which this act is amendatory do not appear in this book, as they relate only to the collection of road taxes by performance of labor or payment in money.

quent, or sufficient thereof for that purpose and to pay the penalty for such delinquency and the costs and expenses of the levy and sale. And any person having men employed, either for himself or a company, shall provide a list of the names of all such persons employed, and if such employer or agent of the employer shall fail to furnish such list, or shall furnish an incomplete or otherwise incorrect one, then said employer or company shall be liable for the amount of the road tax of his or their employes, and shall pay the road tax due by such men, or the men so employed, on being notified in writing by the supervisor: *Provided*, All money paid to or collected by the supervisor for road taxes shall be expended on the roads of his district."

§ 2. **Restrictive Clause.**—SEC. 2. None of the preceding provisions of this act shall apply to the counties of Walla Walla and Kitsap.

**No. 666.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 59, secs. 1, 2, 4, 6, 7, 8, inclusive, 15, 17 to 27 inclusive, 30 to 42, inclusive, 44, 51, 52, 53.) This No. is *verbatim* as No. 665, *supra*, except § 2 of said No. after \* add the following: "Nothing herein contained, however, shall be construed to exempt from taxation any improvements made by settlers on the public lands, which improvements shall be deemed and taxed as personal property until such settler is entitled to make final proof;" and § 3 at \* the words "as a store or shop or" are omitted, so as to read "or used for any other purpose," and § 4 at 4 "then" is omitted, and § 7 at \* instead of the words "first Monday of January and the last Monday in April," read "first Monday in April and the fourth Monday in July;" and at \* instead of "in his county," read "in his district;" and §§ 15, 16, 17 and 20 at 7 instead of "May" read "August," and § 26 at \* instead of that part included in [ ] read as follows: "some newspaper of general circulation in the county;" and § 29 at \*, instead of that part included in [ ] read as follows: "and such lands, city and town lots, shall not again be offered for sale unless by order of the board of county commissioners, but the taxes, charges and interest at twenty-five per cent. per annum shall be carefully charged by the county treasurer from year to year until the county commissioners shall deem it expedient to sell the same. \* \* \* The county commissioners may, when they deem it expedient, order the sale of such delinquent lands, city and town lots, which shall be sold in the same manner that other lands, city and town lots are sold for delinquent taxes. The taxes, interest, costs, charges and accrued taxes are hereby made a perpetual lien on all such lands, city and town lots against all persons;" and § 30 at 10 instead of that part included in [ ] read as follows: "accruing taxes, with twenty-five per cent. on the same until redeemed to the purchaser;" and § 35 at 11 instead of "1872," read "1876."

**No. 667.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE," APPROVED NOVEMBER 29, 1871.<sup>1</sup>**

§ 1. **Time of Assessment.**—SECTION 1. *Be it enacted, etc.*, That section fifteen of an act entitled "An act to provide for the assessing and collecting county and Territorial revenue,"<sup>2</sup> be so amended as to read as follows: "Between the first Monday of April and the last Monday of July in each year, the assessor in each county shall ascertain by diligent inquiry the names of all persons liable to taxation in his county, and also all the taxable personal property and all taxable real estate therein, and make out an assessment roll of all taxable property, and appraise the same according to the provisions relating thereto."

§ 2. **Correction, etc., of Assessment Roll.**—SEC. 2. That section twenty-four<sup>3</sup> of this act, to which this is amendatory, be so amended as to read as follows: "The board of commissioners of each county shall, at its term in August in each year, examine the assessment roll of its county, and shall have power to collect† the same, make alterations in the de-

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 75.)

<sup>2</sup> See No. 665, § 7, *supra*.

<sup>3</sup> See *ibid.* § 15.

† "Correct."

scription of lands or other property upon such roll when it shall be necessary to render such description conformable to the requirements of this chapter, and may make any other alterations or corrections in such roll as it shall deem necessary to make the same conform to the requirements of this chapter."

§ 3. **Determination of Tax.**—SEC. 3. That section twenty-five \* of an act to which this is amendatory be so amended as to read as follows: "The board of commissioners of each county shall, at its term in August in each year, estimate and determine the amount of money to be raised in each county for county purposes, and apportion such amount, together with the amount of Territorial and school tax required by law to be raised in its county, according to the valuation of taxable property in the county for a year, and such determination shall be entered at large in its records."

§ 4. **Levy.**—SEC. 4. That section twenty-six \* of the act to which this is amendatory be so amended as to read as follows: "For the purpose of raising a revenue for county purposes, the commissioners of each county in the Territory shall, at its August term in each year, levy a tax on all taxable property in its county, which tax shall be sufficient in amount to defray the expenses of the county. *Provided*, The county tax shall not exceed eight mills on every dollar's worth of taxable property in any one year."

§ 5. **Duplicate Roll.**—SEC. 5. That section thirty \* of the act to which this is amendatory be so amended as to read as follows: "The county auditor shall, within fifteen days after the adjournment of the August session of said board, estimate the amount of taxes due on the valuation of property in his county, and shall make out a duplicate assessment roll, which shall contain, in addition thereto, columns showing the amount of the Territorial, school and county tax, and the total amount of each column of valuation, and shall deliver a copy of such roll to the county treasurer and charge such treasurer with the amount of such taxes."

\* See No. 665, § 16.

\* See *ibid.* § 20.

\* See *ibid.* § 17.

#### **No. 668.—AN ACT TO PROVIDE FOR LEVYING A SPECIAL SCHOOL TAX.<sup>1</sup>**

§ 1. **Legal Voters to Levy: Exception.**—SECTION 1. *Be it enacted, etc.* That the legal voters of any school district in this Territory may, once in each year, levy a special school tax for the support of common schools, not exceeding two mills on the dollar on the tax levy for the current year, by submitting the same to the voters of said school district at an election to be called for that purpose. *Provided*, A majority of said voters vote in the affirmative, and not otherwise: *Provided*, That the provisions of this act shall not apply to Columbia county.

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Blen. Sess. 1875, p. 118.)

#### **No. 669.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>**

##### **CHAPTER I.**

§ 1. **What Taxable.**—SECTION 1. *Be it enacted, etc.*, That all property, real and personal, within this Territory, not expressly exempted therefrom, shall be subject to taxation in the manner provided by law.

§ 2. **"Real Property," "Land," Defined.**—SEC. 2. The terms "real property" and "land," whenever used in this act, shall be held to mean and include, not only the land itself, whether laid out into town lots or

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 154.)

otherwise, with all things contained therein, but also all buildings, structures, improvements, trees and other fixtures, of whatever kind, thereon; and all rights and privileges belonging or in any wise appertaining thereto. Nothing in this section contained, however, shall be construed to exempt from taxation any building, structure, improvement, tree or other fixture of any kind, or any right or privilege whatever, owned by any person, which is located upon, or appertains to, land which he does not own.

\* \* \* \* \*

§ 3. **What Exempt.**—SEC. 4. The following property shall be exempt from taxation: (1) All property, real and personal, of the United States and of this Territory; (2) all public or corporate property of the several counties, cities, villages, towns and school districts in this Territory, used or intended for corporate purposes, also all burial grounds, tombs and rights of burial; (3) all buildings used exclusively for public worship and Sabbath schools, and their contents, and the lot upon which they are built: *Provided*, That all such church property, when valued at more than three thousand dollars, shall pay a tax upon all above the said value. But any part of any building, being a house of public worship, which shall be kept or used for any other purpose except for public worship, shall be taxed upon the cash valuation thereof, the same as personal property, to the owner or owners, or to the occupant or occupants; and the taxes shall be collected thereon in the same manner as other taxes. \* \* \*

#### CHAPTER II.

§ 4. **Where and to Whom Shall be Assessed.**—SEC. 6. All lands shall be assessed in the county in which the same shall lie, in the name of the owner; but land owned by one person and occupied by another may be assessed in the name of the owner or occupant; and unoccupied land may be assessed as such without inserting the name of any owner, and every person shall be assessed in the county in which he resides when the assessment is made for all taxable personal property owned by him where-soever situated on the day of commencing the assessment, including all personal property in his possession or under his control as trustee, guardian, executor or administrator, and where there are two or more persons jointly in possession or having control of any such property the same may be assessed to either or all such persons, but it shall be assessed in the county where situated if either of such persons reside in such county.

§ 5. **How Property of Private Corporations Assessed.**—SEC. 7. The real estate of incorporated companies liable to taxation shall be assessed in the county in which the same shall lie, in the same manner as the real estate of individuals.

§ 6. **How Estate of Decedent Assessed.**—SEC. 8. The undivided estate of any deceased person may be assessed to the heirs or devisees of such person, unless occupied by some other person to whom it may be assessed, without designating them by name, until they shall have given notice to the assessor of the division of the estate and the names of the several heirs or devisees; and each heir and devisee shall be liable for the whole of such tax, and shall have a right to recover of the other heirs and devisees their respective portions thereof when paid.

#### CHAPTER III.

§ 7. **Assessment Districts Defined—Time of Assessment.**—SEC. 14. For the purpose of this act this Territory shall be divided into two districts. The counties of Stevens, Whitman, Columbia, Walla Walla, Yakima and Klickitat shall constitute the first district, and all the other counties of the Territory shall constitute the second district. Between the first Monday of February and the fourth Monday of April in every year the assessor of each county in the second district, and between the



first Monday of April and the fourth Monday of June in every year the assessor of each county in the first district, shall ascertain by diligent inquiry the names of all persons liable to taxation in his county, and also all the taxable personal property and all real estate therein, and make out an assessment roll of all taxable property and appraise the same according to the provisions of the statutes relating thereto.

\* \* \* \* \*  
**§ 8. What Assessment Roll to Contain.**—SEC. 16. The assessor shall set down in an assessment roll, to be prepared by himself, in separate columns and according to the best information he can obtain—(1) The names of all persons subject to taxation in his county and numbers of the road and school district of which each person assessed is a resident. (2) A description of each tract or parcel of land to be taxed, specifying under separate heads the township, range and section and the number of the school and road district in which the land lies, or if divided into lots and blocks then the number of the lot and block. (3) The number of acres and parts of an acre, as near as the same can be ascertained, unless the land be divided into lots and blocks. (4) The number of acres and parts of acres in each parcel of land, except town or city lots, that are improved or cultivated. (5) The full cash value of the improvements upon each lot or parcel of land assessed. (6) The full cash value of each lot or parcel of land assessed. (7) The full cash value of all the taxable personal property owned by or to be taxed against such persons as provided by law. (8) The total valuation of all property assessed, real and personal.

**§ 9. Assessment of Town Lots.**—SEC. 17. When lots are situated in any city, village or town, or addition to such city, village or town, a plat of which shall have been recorded, the city, village, town or addition in which the same are situated shall be specified in the assessment roll.

**§ 10. Assessment as Trustee, etc.**—SEC. 18. When any person is assessed as trustee, guardian, executor or administrator, a designation of his representative character shall be added to his name, and such assessment shall be entered in a separate line from his individual assessment, and he shall be assessed for the real estate held by him in such representative character for the full value thereof and for all personal property held by him in such representative character.

**§ 11. In What Case Lands to be Described by Metes and Bounds.**—SEC. 19. If the land assessed be less or other than a subdivision according to the United States survey, unless the same be divided into lots and blocks so that it can be definitely described, it shall be described by giving the boundaries thereof, or in such other manner as to make the description certain.

**§ 12. Initial Letters, etc., May be Used.**—SEC. 20. It shall be sufficient to describe lands in all proceedings relative to assessing, advertising or selling the same for taxes by initial letters, abbreviations and figures to designate the township, range, section or part of section and also the number of the lots and blocks.

**§ 13. How Land of Unknown Owner Assessed.**—SEC. 21. Unoccupied lands liable to taxation, when the name of the owner is unknown, shall be described and the value thereof set down in the assessment roll in a part thereof separate from the other assessment, in the same manner that lands of residents are required to be designated.

**§ 14. Form of Roll.**—SEC. 22. The assessment roll shall be made out in tabular form in separate columns with appropriate heads, the columns of quantities and values to be footed up and carried forward to each succeeding page. The Territorial auditor shall prescribe the form to be used \* \* \*

**§ 15. Assessor's Oath—Return of Roll.**—SEC. 23. The assessment roll shall be made out and the oath of the assessor appended thereto, to

the effect that the same contains the names of all persons liable for any tax, and a complete, true and perfect list and description of all property within his county subject to taxation, so far as he could by diligent inquiry ascertain the same, and that the valuation of property therein is true and just according to his best judgment; and in the first district each assessor shall return his assessment roll to the auditor of his county on or before the second Monday of July of each year, and in the second district each assessor shall return his assessment roll to the auditor on or before the first Monday of May. And each assessment roll shall remain in the office of the auditor where filed for the two weeks next after it is filed, and be open to public inspection.

#### CHAPTER IV.

§ 16. **Board of Equalization: Terms.**—SEC. 24. The board of county commissioners of each county shall annually hold a term for the equalization of assessments, the correction of the assessment roll and the levying of taxes, which term shall commence in the second district on the first Monday in May of each year, and in the first district on the first Monday of August of each year, and continue until such business be completed: *Provided, however,* That said term shall not be extended beyond the second Monday of June following in any county of the second district, nor beyond the second Monday of September in any county of the First district.

§ 17. **Powers and Duties of Board.**—SEC. 25. The board shall, at said term, examine the assessment roll of its county, and shall have power to correct the same, make alterations in the description of lands or other property upon such roll, when it shall be necessary to render such description conformable to the requirements of this act, and may make any other alterations in such roll as it may deem necessary to make the same conform to the requirements of this act. The board shall, at said term, hear and determine all matters wherein complaint is made concerning assessments, and shall raise or reduce, as the case may require, all appraisements of property found to be below or above the average valuation of property of the same or similar kind as made by the assessors, so as to make taxation equal and uniform: *Provided,* That in equalization of assessments the board shall be governed by the value of the property on the day the assessor commenced the assessment of the county.

§ 18. **Property Omitted from Roll Must be Assessed.**—SEC. 26. The board must also place upon and add to the assessment roll any property, real or personal, subject to taxation, which has been omitted by the assessors, and enter for the same a reasonable, just and uniform appraisal.

\* \* \* \* \*

§ 19. **Determination of Tax.**—SEC. 28. The board of county commissioners of each county shall, at said term in each year, estimate and determine the amount of money to be raised in such county for county purposes, for a year, and apportion such amount, together with the amount of school and other taxes required by law to be raised in its county, according to the valuation of taxable property in the county. And such determination shall be entered at large in its records.

§ 20. **Levy.**—SEC. 29. For the purpose of raising a revenue for county purposes, the county commissioners of each county in the Territory shall, at said term, levy a tax on all taxable property in its county, which tax shall be sufficient in amount to defray the expenses of the county: *Provided,* The county tax shall not exceed eight mills on every dollar of taxable property in the county for any one year.

§ 21. **Amount of Tax.**—SEC. 30. Within ten days after the equalization of assessments is completed and approved by the board of county commissioners, each county auditor shall furnish to each road supervisor in his county the lists required to enable said supervisor to collect the

road taxes in their road districts. And each county auditor shall within the same time forward to the Territorial auditor a statement of the total valuation of taxable property in his county. And the Territorial auditor shall thereupon charge each county with the amount of Territorial tax due from each, respectively, at the rate of four mills on the dollar for the total amount of property in the county, as per the auditor's statement of land listed and the total value thereof.

\* \* \* \* \*

**§ 22. Duplicate Roll—Warrant for Collection of Taxes.**—SEC. 33. The auditor of each county in the second district shall, on or before the second Monday of August in every year, and the auditor of each county in the first district shall, on or before the second Monday of November of each year, make out a duplicate of the assessment roll, with columns added thereto showing the amount of the Territorial, school, county poll, road poll, and road property tax, and any special tax to be collected, and the aggregate amounts of all taxes charged on the valuation of all property assessed to each person named on the assessment roll, and shall deliver a copy of said duplicate assessment roll to the sheriff of the county. The copy delivered to the sheriff shall have appended thereto the warrant of the board of county commissioners under the hand of the president of the board and the county auditor, and the seal of the board of county commissioners, in general terms requiring the treasurer to collect the taxes therein levied according to law. The county auditor shall take the receipt of the treasurer for the copy of the tax roll with the warrant attached on delivering the same, and said receipt shall be filed and carefully preserved, and the auditor shall at the same time charge the treasurer with the amount of all the taxes on said roll; the tax list and warrant of the commissioners shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained.

#### CHAPTER V.

\* \* \* \* \*

**§ 23. When Taxes Delinquent.**—SEC. 35. On the first day of December of every year all unpaid taxes in the second district shall become delinquent, and on the first day of March of every year all unpaid taxes in the first district shall become delinquent, and shall thereafter draw interest at the rate of twenty-five cents per annum, and all taxes on lands, city and town lots, steamboats and other vessels are hereby made a perpetual lien thereupon against all persons and bodies corporate; such lien shall have precedence over all other liens except for prior tax.

\* \* \* \* \*

**§ 24. Manner of Payment and Collection of Taxes.**—SEC. 37. No demand of taxes shall be necessary, but it shall be the duty of every person subject to taxation under this law to attend at the treasurer's office at the county seat and pay his taxes, and if any person neglect to so attend and pay his taxes until after the same become delinquent, the "sheriff" shall collect the same by distress and sale of the personal property of the delinquent, or by sale of the real estate of such delinquent, as herein-after provided.

**§ 25. Penalty for Delinquency.**—SEC. 38. To all delinquent taxes ten per cent. of the amount thereof shall be added as a penalty, and shall be collected by the treasurer at the same time and in the same manner that the tax is collected.

**§ 26. Collection of Delinquent Local Tax.**—SEC. 39. Whenever any district, town, city or local tax shall have been levied according to law, and the same shall not have been paid within the time limited, it shall be the duty of the collector of such tax to send the delinquent list of such tax to the treasurer of the county embracing such city, town or district, at or before the time the county and Territorial tax for the same year be-

come delinquent, and it shall then be the duty of such county treasurer to collect such local tax at the same time and in the same manner as delinquent Territorial and county taxes are collected, and for the purpose of collection such city, district, town or other local tax shall be added to the amount of delinquent Territorial and other taxes, and in making sale of any property, real or personal, for the delinquent taxes, the treasurer shall sell such property for the purpose of paying all such delinquent taxes \* \* \*

§ 27. **Manner of Sale.**—SEC. [47]. The treasurer shall sell at public auction all real estate upon which taxes have been levied and not paid, which the treasurer is required by this act to collect, or sufficient thereof to pay all such taxes, interest, penalty and costs, to the highest bidder for cash: *Provided*, That if there be no bidder for any parcel or lot of a sum sufficient to pay all taxes, penalty, interest and costs, including cost of advertising notice of sale, that the treasurer is required to collect by sale of such parcel or lot, the same shall be struck off to the county for the whole amount of all such taxes, penalty, interest and costs.

§ 28. **Place and Time of Sale.**—SEC. [48]. The sale of real estate for taxes shall be at the county seat of each county, and shall commence in the second district on the first Monday of April and in the first district on the first Monday of July of each year, at ten o'clock in the forenoon, and shall be continued from day to day until all such real estate shall be sold, or twice offered for sale on different days.

§ 29. **Notice of Sale: Substance and Manner of.**—SEC. [49]. The treasurer shall give notice of all sales of real property by publication thereof once a week for three consecutive weeks, commencing the first week of the month preceding the sale, in a newspaper of general circulation in the county, and by posting printed notices in six public places in the county three weeks prior to the sale; the notice required to be published and posted by this section shall contain a notification that all real estate upon which the taxes for the preceding year (naming it) have not been paid, and all real estate previously sold to the county for taxes of any preceding year, will be sold, and the time and place of such sale; and said notice must also contain a list and description of all land, city and town lots to be sold, and the names of the persons to whom the same are assessed, unless the same are assessed as belonging to persons "unknown," in which case the same shall be so designated, and the whole amount of taxes, penalty, interest and costs, including costs of advertising the notice, to be collected from each person named in the list or from each parcel or lot assessed as "unknown."

§ 30. **Real Estate Sold to County Shall be Re-Offered.**—SEC. 39 (50). Real estate sold to the county for taxes shall be offered for sale at each subsequent sale of real estate for delinquent taxes until the same shall have been sold or redeemed.

§ 31. **Return of Sale.**—SEC. 40 (51). On or before the first Monday of May following the sale of real estate in the second district, and on or before the first Monday of August following such sale in the first district, for delinquent taxes, the treasurer shall file in the office of the county auditor a return of the sale, showing the land sold, the names of the purchasers, and the sums paid by them for each parcel or lot, and also a copy of the notice of sale, and his affidavit of advertising and posting thereof as required by this act, stating the name of the paper in which the same was published, the number of publications, the date of the first and last, the date and place where the notices were posted, and such affidavit shall be evidence of the regularity of the proceedings.

§ 32. **Certificate of Purchase: Substance and Effect of.**—SEC. [54]. The purchaser of any tract or lot of land sold for taxes shall be entitled to

a certificate describing the land so purchased and stating the amount paid and date of the sale, which certificate shall be assignable. It shall be signed by the county treasurer in his official capacity, and shall be presumptive evidence of the regularity of all prior proceedings. The purchaser acquires a lien on the land for the amount paid by him at the sale, and if he subsequently pay any tax levied upon the same, whether for any year or years previous or subsequent to the sale, he shall have the same lien for the taxes so paid, and he shall be entitled to interest on the amount of all taxes paid by him at the rate of twenty-five per cent. per annum.

**§ 33. Disposition of Lands Sold to County.**—SEC. 42 (55). The county treasurer shall, within ten days after each annual sale of real estate for taxes, make out a list of all lands, city and town lots sold to the county, and deliver the same to the county auditor, who shall enter the same as county lands, city and town lots, in a book kept for that purpose, and taxes shall be regularly assessed thereon, and the taxes, cost and interest at the rate of twenty-five per cent. per annum shall be carefully charged by the county treasurer from year to year until the same shall be sold or redeemed.

**§ 34. Redemption: Limitation and Manner of.**—SEC. 43 (56). All lands, city and town lots sold to actual purchasers shall be subject to redemption by the former owner thereof, his successor in interest or creditors having a lien thereon, within two years thereafter, on payment of the amount paid by the purchaser at the tax sale, and interest thereon at the rate of twenty-five per cent. per annum from the day of the sale; and all taxes paid by the purchaser or assignee of the purchaser in the land subsequent to the sale, and interest thereon at the rate of twenty-five per cent. per annum from the day of payment of such taxes, to the purchaser or his assignee, who shall receipt therefor, or to the treasurer for the purchaser or his assignee.

**§ 35. Redemption of Land Sold to County.**—SEC. 44 (57). Lands and city and town lots sold to the county may be redeemed by the former owner thereof by the payment to the county treasurer of the amount of all taxes, penalty, interest, costs and accrued taxes and interest charged to such lands or lots. And on presentation of the treasurer's receipt for such payment, the county auditor shall give to the redemptioner a certificate of redemption, signed by him in his official capacity and sealed with the seal of the board of county commissioners, and shall charge such treasurers with the amount of such receipt, and shall omit the lands, city or town lots so redeemed from his list of county lands.

#### CHAPTER VI.

**§ 36. If Not Redeemed, Purchaser May Bring Action for Conveyance.**—SEC. 45. (58.) If within two years after the sale of any parcel or lot of land for taxes the same be not redeemed as herein provided, the holder of the treasurer's certificate of sale may commence an action in the district court of the district embracing the county where the property is situated, to obtain a conveyance of the title to such parcel or lot of land, by the filing of a petition alleging the facts upon which the claim is founded.

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**§ 37. Notice of Action: Manner and Substance of.**—SEC. 60. Notice of the pendency of the suit shall be given by publication thereof for four consecutive weeks in a newspaper of general circulation in the county, which notice shall contain the title of the court in which the action is pending, a description of the property, the name of the person to whom it was assessed, unless it was assessed as unoccupied and unknown, in which case it shall be so designated, the date of the tax sale, and shall state the time when the case will be heard, which shall be on some day



of a regular term, and shall require all persons interested to appear and show cause, if any there be, why a conveyance of the title to the property described shall not be decreed to the plaintiff.

**§ 38. Nature of Proof Required.**—SEC. 61. At the time stated in the notice, or as soon thereafter as practicable, the court shall hear the case, and at such hearing the original tax list with the warrant appended delivered to the treasurer, and the treasurer's return of the sale, and the notice of the sale and affidavit of the publication and posting thereof, and the treasurer's certificate issued to the purchaser, shall be produced and admitted as evidence, if the same be then in existence, or if not in existence, then satisfactory proof of the material facts must be made.

**§ 39. If Court Satisfied, Deed Shall be Executed.**—SEC. 46 (62). If it shall appear to the court that sale of the property was made by the treasurer for a tax which he was by law required to collect after proper notice of such sale as herein required, that the plaintiff in the suit or the person under whom he claims was the highest bidder and the purchaser at such sale, that the amount bid was actually paid and that no redemption has taken place, a conveyance of the title to the property shall be decreed to the plaintiff and the court shall appoint a commissioner to execute a deed for that purpose.

**§ 40. Force and Effect of Deed.**—SEC. 47 (63). Such deed, when executed and approved by the court and delivered and recorded, shall be held to convey to the grantee all the right, title, interest and estate of all persons whomsoever claiming an interest therein at the time of the decree and to rest in the grantee an absolute estate in fee simple in such real estate, subject, however, to all claims for taxes accruing after the sale.

**§ 41. Extent of Judgment.**—SEC. 48 (64). If in any action brought to obtain a conveyance of title under the provisions of this act it shall appear that the plaintiff is not entitled to such conveyance, and that taxes have been lawfully assessed upon the parcel or lot claimed, or against the owner thereof, and that such tax has not been paid by the owner of said parcel or lot, the court shall give judgment in favor of the plaintiff and against the owner of the property for the true and just amount of such tax due from the owner or those under whom he claims and ten per cent. additional as penalty if the same has become delinquent as provided in this act, and all costs and accrued interest and taxes, or so much thereof as shall have been paid by the plaintiff or those under whom he claims, with interest on the amount paid at the rate of twenty-five per cent. per annum.

**§ 42. If Property Wrongfully Sold, County Will Protect Purchaser.**—SEC. 49 (65). When by any mistake or wrongful act of the treasurer real estate has been sold for taxes on which no tax was due, or for any amount in excess of the amount justly due at the time of such sale, the county shall save the purchaser harmless by repaying to him the amount of principle and interest to which he would have been entitled had such real estate been rightfully sold, and the treasurer and his sureties shall be liable for the amount to the county on his official bond, or the purchaser may recover the same directly from the treasurer and his sureties by civil action.

**§ 43. If Action Brought, for What Judgment May be Had.**—SEC. 50 (66). Whenever any action or proceeding shall be commenced and maintained in any court or before any judge to prevent or restrain the collection of any tax or part thereof, or any particular act of an officer in the collection thereof, or to recover any such tax before paid, or to recover the possession of or title to any property, real or personal, sold for taxes, or to invalidate or cancel any deed or grant thereof for taxes, or to restrain, prevent, recover or delay any payment of taxes, if the court or judge grant the relief sought in such action, the true and just amount of taxes due upon such property, or by the person or persons commencing

such action, and all interest, penalty and cost accrued thereon according to the provisions of this act, must be ascertained, and payment shall be given therefor in the same action or proceeding against the person or persons liable for the same.

§ 44. **In What Case Deed May Issue Without Action.**—SEC. 51 (67). If any parcel of real estate thus sold should not, in the option of the tax purchaser, be of a sufficient value to justify the costs of proceeding as directed in section 52 and this act to confirm title, he may procure a title deed to said property from the county treasurer on surrender of his certificate of purchase and establishing to the satisfaction of said treasurer that all subsequently accrued taxes have been fully paid, which deed shall run in the name of the Territory of Washington, and shall convey the premises in fee simple to the grantees, subject to be set aside only upon action brought in due form of law by the party or parties claiming under the original title within ten years from the date of the public tax sale at which it was sold, and upon conclusive proof of such irregularities of procedure in violation of the provisions of this act, or under the provisions of this act, as to constitute an equitable defeasance of the said conveyance. \* \* \*

## CHAPTER VII.

§ 45. **Saving Clause.**—SEC. 64 (81). Nothing in this act shall be so construed as to interfere with the provisions of any act allowing the levy of a special tax in any county in this Territory, but the manner of collecting such special taxes shall be as hereinbefore provided.

§ 46. **Repealing Clause.**—SEC. 65 (82). All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 47. **Date in Effect.**—SEC. 83. This act shall take effect and be in force from and after the first day of January, A. D. 1878.

**No. 669½.—AN ACT IN RELATION TO ROADS, BRIDGES AND TRAVEL ON PUBLIC HIGHWAYS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

§ 2. **Levy and Amount of Tax.**—SEC. 22. It shall be the duty of the board of county commissioners of the several counties, at their February session, to levy and assess a road tax of four dollars on every male person liable to perform labor on the public roads, between the ages of twenty-one and fifty years, except persons that are a public charge or too infirm to perform labor; also to assess not less than one or more than five mills on every dollar's worth of property as returned by the county assessors, which tax shall be assessed and collected in labor at the rate of two dollars per day, unless he shall elect to pay the same in money: *Provided, however,* That the road property tax of non-residents shall be collected by the county collector of taxes the same as other taxes are collected.

§ 3. **Payment and Collection of Tax.**—SEC. 24. The supervisor must notify every person within his road district subject to road labor as aforesaid, to perform the work assessed upon the public road within his district; and if any person subject to road labor as aforesaid shall, after three days' notice, either personally or by writing left at his usual place of abode, or sent by mail to his postoffice address, by the supervisor or by any other person by his direction, neglect or refuse to attend by him-

<sup>1</sup> Approved Nov. 12, 1879. (See Seventh Bien. Sess. 1879, p. 49.)

self or substitute, at the time and place designated by the supervisor, or having attended shall refuse to obey the directions of the supervisor, or shall pass his time in idleness or inattention to the labor or duties assigned, every such delinquent shall thereby become liable to an additional assessment of twenty-five per cent. of his original tax, and the supervisor shall add the same to the amount on the tax roll, and demand the same as original tax, and upon further refusal to comply with the directions or orders of said supervisor, he shall return the same as delinquent, to be collected as by law provided for delinquent taxes. It shall be the duty of every person, firm, corporation or company, or their agents, who have or may have in his or their employ persons working for wages, who are liable to perform road labor under the law, whose names are not placed on the list of the road supervisors, to furnish to such supervisors on demand the names of such persons employed, by whatever name, number or appellation they are known by such person, firm, corporation or company, or by his or their agent; and it shall also be the duty of such firm, person, corporation or company to retain or cause to be retained from the wages of such person or persons a sufficient amount to pay the tax due from them, respectively, and if a sufficient amount is not due to the person or persons so employed, then such person, firm, corporation or company shall pay to the supervisor, on demand, whatever sum may be due to such person or persons so employed, and if a sufficient amount shall thereafter become due to such person or persons, it shall be retained and paid to the road supervisor on demand: *Provided*, That such person or persons so employed neglect or refuse to perform their road labor as required by law and the provisions of this act.

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**§ 4. Repealing Clause.**—SEC. 72: All acts and parts of acts in conflict with the provisions of this act are hereby repealed: *Provided*, That an act in relation to roads and highways in the county of Jefferson, approved Nov. 9, 1877,<sup>2</sup> and an act entitled "An act to provide for the collection of road tax, and the maintenance of roads in Kitsap county," approved November 10, 1879,<sup>3</sup> are hereby declared to remain and be in force, and where, in said acts, reference is made to the general road law, this act shall govern: *Provided, however*, That such repeal, except where it is otherwise provided in this act, shall not affect any act done or forfeiture incurred, or any right established, accrued or accruing, or taxes levied and assessed before the passage of this act, or suit or other proceedings pending on the day this act goes into effect, save only that the proceedings thereafter had shall conform as far as practicable to the provisions of this act: *And still further provided*, That taxes heretofore levied and assessed may also be collected under the provisions of the laws hereby repealed: *Provided further*, That this act shall not be construed so as to repeal any law heretofore passed extending the time for working on roads in Cowlitz county.

□ **§ 5. Date in Effect.**—SEC. 73. This act to take effect and be in force from and after January 1, 1880.

<sup>2</sup> See Title IX, Chapter XI, of this Division.

<sup>3</sup> See Title IX, Chapter IX, of this Division.

## No. 670.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE.<sup>1</sup>

### CHAPTER I.

**§ 1. What Taxable—What Exempt.**—SECTION 1. *Be it enacted, etc.*, That all property, real and personal, within the Territory, except the

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 3.)

property of the United States, of the Territory of Washington, of municipal corporations, of school districts, of burial grounds, not owned or controlled for speculative purposes, \* \* \* shall be subject to taxation in the manner hereinafter provided.

## CHAPTER II.

**§ 2. Definition of Terms Used in This Act.**—SEC. 2. Whenever the terms mentioned in this section are employed in this act, they are employed in the sense hereafter affixed to them, to wit: *First*, The word "property" includes moneys, credits, dues, stocks, bonds, franchises, and all other matters and things, real, personal and mixed, capable of private ownership. *Second*, The term "real estate" includes—(1) the ownership of, claim to, possession of, or right to the possession of land; (2) all mines, minerals and quarries in and under the land, and timber of natural growth on the land, and all rights and privileges appertaining thereto; (3) improvements. *Third*, The term "improvements" includes—(1) all buildings, structures, fixtures, fences, clearings and improvements made, erected upon or fixed to the land; (2) all fruit, nut-bearing or ornamental trees and vines not of natural growth; (3) the term "personal property" includes everything which is the subject of ownership, not included within the meaning of the term "real estate;" (4) the term "full cash value" means the amount at which the property would be appraised if taken in payment of a just debt due from a solvent debtor; (5) the words "him" or "his" shall be understood to mean "her" or "hers" when property belonging to a female is assessed; (6) the words "county," "auditor," "treasurer," "assessor" or "sheriff," when used in this act, shall be understood to apply to each county respectively.

## CHAPTER III.

**§ 3. At What Value Assessed.**—SEC. 3. All property must be assessed at its full cash value.

**§ 4. Time of Assessment.**—SEC. 9. The county assessor must, between the first Monday of April and the first Monday of July in each year, ascertain the names of all taxable inhabitants in his county, and all the property in his county subject to taxation, and must assess said property to the persons who own, claim or have the possession or control thereof on said first Monday of April at 12 o'clock meridian.

**§ 5. Penalty for Failure to Furnish Assessor Information.**—SEC. 15. Whenever the assessor deems it necessary to obtain an accurate description of any tract or lot of land in his county, he may require the owner or his agent to furnish the same with any title papers he may have in his possession, and if on demand the owner neglects or refuses to furnish the same, the assessor may employ the county surveyor to make out a description of the boundaries and location thereof, and a statement of the quantity of the land therein; and the expenses of such survey must be returned by the assessor to the county auditor, who must add the amount to the taxes assessed upon the property, which amount so added must, when collected by the county treasurer, be paid over to the county surveyor.

**§ 6. Assessment of Known and Unknown Owner.**—SEC. 17. If the name of the absent owner is known to the assessor, the property must be assessed in his name; if unknown, the property must be assessed to "unknown owners."

**§ 7. Assessment as Trustee, etc.**—SEC. 20. When a person is assessed as agent, trustee, bailee, guardian, executor or administrator, his repre-

sentative designation must be added to his name, and the assessment entered on a separate line from his individual assessment.

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§ 8. **Assessment of Property of Private Corporation.**—SEC. 22. The property of every firm and corporation, must be assessed in the county where the property is situated, and must be assessed in the name of the firm or corporation, unless otherwise provided by this act.

§ 9. **Assessment of Property of Decedent.**—SEC. 23. The undistributed or unpartitioned property of deceased persons may be assessed to the heirs, guardians, executors or administrators; and a payment of taxes made by either binds all the parties in interest for their equal proportions.

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§ 10. **In What Case Assessment Shall be Double.**—SEC. 30. Any property discovered by the assessor or tax collector to have escaped assessment for the last preceding year, if such property is in the ownership or under the control of the same person who owned or controlled it for such preceding year, shall be assessed at double its value.

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§ 11. **Assessment of Property of Railroad Companies.**—SEC. 35. Lands, lots and other real estate situate in the Territory belonging to any railroad company or corporation, not exclusively used in the operation of said railroad, shall be assessed and taxed on the same basis as the property of individuals in the several counties where situated.

§ 12. **Rights-of-Way, etc., Shall Not be Assessed as Part of Adjacent Property.**—SEC. 36. No real estate used by railway corporations for road-beds shall be included in the assessment to individuals of the adjacent property, but all such real estate shall be deemed to be the property of such companies for the purpose of taxation; nor shall real estate occupied or used as a public highway be assessed and taxed as part of adjacent lands from whence the same was taken for such public purpose.

§ 13. **Assessment of Rights-of-Way.**—SEC. 37. The land occupied and claimed exclusively as the right-of-way for railroads by railroad companies or corporations, with the track and all the substructions and superstructures which support the same, must be assessed as a whole, and as real estate, without separating the same into lands and improvements, at a certain sum per mile; and all such real estate situated in the Territory and occupied and claimed by any railroad company as such right-of-way shall be deemed to be the property of such company for the purpose of taxation, whether the same be government land or otherwise.

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§ 14. **Assessment of Ditches, Roads, etc.**—SEC. 42. All water ditches constructed for mining, manufacturing or irrigation purposes, and wagon or turnpike toll roads, with all improvements attached to such properties, must be listed and assessed as real estate, without separating the land and the improvements either in the description or valuation of the same, at a certain sum per mile,

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§ 15. **Assessment of Property of Telegraph and Express Companies.**—SEC. 43. All property, real and personal, including their franchises, owned by telegraph and express companies, and situated in the Territory, must be listed and assessed for taxation, and shall be subject to the same levies as the property of individuals and the same rules that govern other companies or corporations.

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§ 16. **Assessment of Mineral and Timber Lands.**—SEC. 50. All lands known to contain mines, minerals, quarries, gypsum and natural timber of value, shall be assessed according to their full cash value, which shall include the value of said mines, minerals, quarries, gypsum



and timber; and the assessor shall note on his assessment roll, immediately under the description of said lands, their nature, whether coal mines, gold mines, silver mines, copper mines, iron mines.

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§ 17. **Improvements of Settlers.**—SEC. 53. The assessor must assess all improvements upon public lands as personal property, until the settler thereon has made "final proof;" if, however, in case of preëmption claims, the entire purchase money has been paid by the preëmptor, and a certificate issued therefor, the land itself must be assessed, notwithstanding the patent has not issued.

§ 18. **Duty of Assessor When Land Contains Lake, etc.**—SEC. 53. When the assessor sets a less value upon any lot, tract or parcel of land, because the same contains a lake, marsh, swamp, gulch or mountain, or for any other cause which he deems injurious to the value thereof, than he sets upon other lands in the same locality, he must note on his assessment roll immediately under the description of said land, in general terms, the topography of said lot or tract of land sufficient to enable the board of equalization to understand the reason of the discrepancy between the value of lands in the same locality.

§ 19. **Assessment of Mortgages, etc.**—SEC. 54. A mortgage, deed of trust, contract, lien or other obligation by which a debt is secured shall, for the purpose of assessment and taxation, be deemed and treated as an interest in the property affected thereby, and in case of debts so secured the value of the property affected by such mortgage, deed of trust, contract, lien or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, and the value of such security shall be assessed and taxed to the owner thereof in the county in which the property affected thereof is situated. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security; if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment a full discharge thereof: *Provided*, That if any such security or indebtedness shall be paid by any such debtor or debtors after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year.

§ 20. **Certain Contract Declared Void.**—SEC. 55. Every contract hereafter made, by which a debtor is obligated to pay any tax assessment on money loaned, or on any mortgage, deed of trust or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

§ 21. **Debts May be Deducted.**—SEC. 56. Any person may deduct from his unsecured credits all *bona fide* debts due and owing by him, whether on account, contract, note, mortgage or otherwise.

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§ 22. **How Mortgages, etc., Assessed.**—SEC. 71. The assessor must examine the mortgage, lien and trust deed records in the auditor's office of his county, and assess all mortgages, lien and trust deeds, given to secure the payment of loans on money, not canceled on the first Monday of April in each year at 12 o'clock meridian, unless the same has been listed for assessment for the year in which he was assessing.

§ 23. **Substance of Roll.**—SEC. 72. The assessor must enter upon his assessment roll—(1) The names, in alphabetical order, of all persons subject to taxation in his county; he may omit the alphabetical order of the names of persons whose poll taxes are charged to any person, firm, corporation or company. (2) The number of road and school district of each male

resident assessed who is over 21 and under 50 years of age. (3) A description of each tract, parcel, lot or block of land assessed, specifying under separate heads the section, township and range, except where lots or blocks are situated in any town, village, city, or addition to such town, village or city, the plat or addition of which has been recorded, then the name of said town, village, city, or addition to the same, and the number of each lot and block according to the system of numbering said plats or additions, respectively. (4) The number of acres in each tract or parcel of land, except lots. (5) The number of acres in each parcel or tract of land improved. (6) The number of the road and school district in which each tract, parcel, lot or block of land assessed lies. (7) The full cash value of each tract, parcel, lot or block of land assessed. (8) The full cash value of the improvements on each tract, parcel, lot or block of land assessed. (9) The aggregate amount of the personal property of each person, firm, corporation or company assessed, as shown in their respective statements upon their detail lists. (10) The total valuation of all property assessed to each person, firm, corporation or company. (11) The amount of road poll tax of each person or firm liable for the same. (12) The amount of poll tax of each person or firm liable for the same.

**§ 24. Land and Improvements to be Assessed Separately.**—SEC. 73. The assessor must assess each description of land separately, and the improvements upon the same separately.

**§ 25. When Roll Shall be Completed.**—SEC. 74. The county assessor of each county must complete his assessment roll on or before the first Monday of July in each year. \* \* \*

#### CHAPTER IV.

**§ 26. Board of Equalization: Term of.**—SEC. 75. The board of county commissioners of each county shall constitute a board for the equalization of taxes for its respective county, and shall annually hold a session for the equalization of assessments and the correction of the assessment roll, which term shall commence on the first day of the regular August term of each year, and continue until such business is completed: *Provided*, That said term shall not exceed two weeks in one county, for this purpose.

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**§ 27. Powers and Duties of Board.**—SEC. 79. The board for the equalization of taxes shall, at its session, examine the assessment roll of the county filed for that year, and shall have power to correct the same by directing the clerk of the board to make alterations in the description of lands or other property listed upon such roll when it shall be necessary to make such description conformable to the requirements of this act, and may direct the clerk to make any other alterations in such roll that it may deem necessary to make the same conform to the requirements of this act. The board shall, at said session, hear and determine all matters wherein complaint is made concerning assessments, and may subpoena such witnesses, hear and take such evidence in relation to the subject-matter pending as in its discretion it may deem proper, and shall raise or reduce, as the case may require, all appraisements of property found to be below or above the average valuation of property of the same or similar kind as made by the assessor, so as to make taxation equal and uniform, and direct the clerk to enter such raise or reduction upon the assessment roll: *Provided*, That in the equalization of assessments the board shall be governed by the value of the property on the first Monday of April in said year.

**§ 28. Property Omitted from Roll Must be Assessed.**—SEC. 80. The board must also direct the clerk to place upon and add to the assessment roll any property, real or personal, subject to taxation, which it may dis-

cover to have been omitted by the assessor, and must assess the same at a just and uniform value as compared with the average valuation of property of the same or similar kind as made by the assessor.

§ 29. **Effect of Failure to Apply for Equalization.**—SEC. 81. During the session of the board for the equalization of taxes and the correction of the assessment roll, any person, or his attorney or agent, may attend and apply for the correction of any alleged error in the listing or valuation of his property, and a failure to so attend and apply shall bar said person from further recourse in law as to the valuation, but not as to error in description, or to double assessments.

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#### CHAPTER V.

§ 30. **Determination of Tax.**—SEC. 83. The board of county commissioners of each county must, at its August session in each year, estimate and determine the amount of money to be raised in its county for Territorial, county, school and road purposes, respectively, for the year, and such determination must be entered at large in its records.

§ 31. **Levy.**—SEC. 84. For the purpose of raising a revenue for Territorial, county, school and road purposes, the board shall, at said session, levy a tax on all taxable property in the county, as shown by the assessment roll, which tax shall be sufficient in amount to defray the Territorial, county, school and road expenses of the county: *Provided*, The Territorial tax shall be three mills; the county and school tax shall not exceed eight mills each, and the road shall not exceed six mills on every dollar of taxable property in the county for any one year: *And provided further*, That the three mills tax for Territorial purposes shall be paid into the Territorial treasury, except for errors, double assessments and in cases where the collection of taxes are prohibited by injunction of a court having jurisdiction of such cases.

§ 32. **Taxes a Lien Until Paid.**—SEC. 85. Every tax has the effect of a judgment against the person, and every lien created by this act has the force and effect of an execution duly levied against all property of the person assessed; the judgment is not satisfied nor the lien removed until the taxes are paid.

§ 33. **Personal Taxes a Lien on Real Property.**—SEC. 86. Every tax due upon personal property is a lien upon the real property of the owner thereof.

§ 34. **Taxes on Real Property, etc., a Lien.**—SEC. 87. Every tax due upon real property is a lien against the property assessed; and every tax due upon improvements upon real estate assessed to other than the owner of the real estate, is a lien upon the land and improvements.

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#### CHAPTER VII.

§ 35. **Who Shall Collect Taxes.**—SEC. 103. The county treasurer of each county in the Territory shall be the collector of taxes for his respective county, except as herein provided for the collection of poll, road poll and road property taxes: *Provided*, That the treasurer shall not be the collector of taxes after the first day of January of each year, but shall, after he has made his comparison with the auditor, as provided in section 113 of this act, turn over the duplicate assessment roll to the sheriff of the county, who shall collect the delinquent taxes as in this act provided, and the auditor shall charge the sheriff with the amount of delinquent taxes turned over to him, and shall credit the treasurer with said amount; and the sheriff shall have the ten per cent. penalty for the collection of all the delinquent taxes.

§ 36. **Authority for Collection.**—SEC. 104. The "duplicate assessment roll," with the warrant of the county auditor thereto affixed, shall be

full and sufficient authority for the county treasurer to collect the taxes therein levied.

§ 37. **Notice to Taxpayers: Substance of.**—SEC. 105. The county treasurer, within ten days after the receipt of the "duplicate assessment roll," must publish an official notice, specifying—(1) That the duplicate assessment roll of the county for the year 18— is now in his possession for collection of the taxes levied therein. (2) That taxes will be delinquent on the 31st day of December next thereafter, at 6 o'clock P. M., and that unless paid prior thereto, ten per cent. will be added to the amount thereof as penalty, and interest charged at the rate of 20 per cent. per annum from date of delinquency until paid. (3) The time and place at which payment of taxes may be paid.

§ 38. **Publication of Notice.**—SEC. 106. The notice must be published for four consecutive weeks in the weekly newspaper published in the county, if there be one, or if there be more than one, then in the official paper published in the county; or if there be no paper published in said county, it shall be the duty of the treasurer to post written notices in at least three public places in said county.

§ 39. **Manner of Payment.**—SEC. 107. No demand for taxes shall be necessary, but it shall be the duty of every person subject to taxation under this act to attend in person, or by agent or attorney, at the office of the county treasurer, and pay his taxes before the same become delinquent; and if not so paid, then the treasurer must collect the same by distraint and sale of property as herein provided.

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§ 40. **Taxes on Estate of Decedent, Must be Paid Before Distribution.**—SEC. 111. The probate judge must require every administrator and executor to pay out of the funds of the estate all taxes due from such estate; and no order or decree for the distribution of any property of any decedent among the heirs or devisees must be made until all taxes against the estate are paid.

§ 41. **When Taxes Delinquent.**—SEC. 112. On the thirty-first day of December in each year, at six o'clock P. M., all unpaid taxes are delinquent, and thereafter the sheriff must collect thereon, at the same time and in the same manner that the tax is collected, 10 per cent. additional, as penalty, and interest at the rate of 20 per cent. per annum from said date until paid.

§ 42. **Duplicate Roll—Correction of Errors, etc.**—SEC. 113. On the first Thursday of January in each year the treasurer of each county must attend at the office of the county auditor with the duplicate assessment roll, and every item marked "paid" in such duplicate assessment roll must be marked "paid" in the "original assessment roll," with the date of payment of each; and every item marked "error" or "double assessment" in the duplicate must be marked the same in the original: *Provided*, The auditor shall be satisfied that the same are "errors" or "double assessments;" and the delinquent taxes must then be extended on each roll into the columns prepared for the same, with the ten per cent. penalty added, and the footings of the delinquent taxes in the original and duplicate rolls must agree.

§ 43. **Collection of Delinquent Tax.**—SEC. 114. Immediately after taxes have become delinquent in each year, and the footings are made as required in the preceding section, the county sheriff must proceed to collect the same by distraint and sale of the personal property of persons whose taxes are delinquent on his list, wherever the same may be found in the Territory, but he must first make sale of the personal property of said persons in the county in which the tax was levied, if any can be found.

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§ 44. **Time of Sale.**—SEC. 133. On the third Monday in March in each year, at 10 o'clock A. M., at the county seat of each county, the county sheriff thereof, or his deputy, must commence the sale at public auction of real estate upon which taxes have been levied and not paid for said year.

§ 45. **Place of Sale.**—SEC. 134. The sale of real estate for delinquent taxes may be at the office of the county sheriff or at the court house of the county, as the sheriff may elect, by notice duly given at the time of publication of the delinquent list.

§ 46. **Notice of Sale: Manner and Substance of.**—SEC. 135. The sheriff must give notice of sale of real property for taxes by publishing the delinquent list with total amount of taxes, including penalty, interest and costs to date of sale, in the weekly newspaper published in the county, or supplement thereto, if there be one; or if there be two or more newspapers published in said county, then in the official paper published in said county, or supplement thereto; or if there be no paper published in the county, then in some newspaper published in the Territory and having a general circulation in the county for which said printing is done, or by posting printed or written notices in at least six of the most public places in the county, for three consecutive weeks prior to the first day of sale.

§ 47. **Sale of Real Estate for Taxes of Previous Years.**—SEC. 136. Said notices must contain a notification that all real estate upon which the taxes for the preceding year (naming it) have not been paid, will be sold at public auction, or a sufficient portion thereof, to satisfy all taxes, penalties, interest and costs due to the county from the owners thereof for said year; the time and place of such sale, a description of all lands, city and town lots to be sold, and the names of the persons to whom the same are assessed or to "owners unknown," as the case may be.

§ 48. **Manner of Sale.**—SEC. 137. On the day fixed for sale, and on each subsequent day adjourned to, the sheriff, between the hours of 10 o'clock A. M. and 8 o'clock P. M., must offer for sale the property advertised (unless all taxes, penalty, interest and costs against the owner of any specific tract thereof have been previously paid), commencing at the head of the list and continuing alphabetically with the names of the persons whose taxes are delinquent, and must sell to the persons who will take the least quantity of the land offered, or in case an individual interest is assessed, then the smallest portion of the interest, and pay all the taxes, penalty, interest and costs due from the owner of said land for the year in which said taxes are delinquent.

§ 49. **In What Case County Shall Purchase.**—SEC. 138. The land assessed to each person, corporation or company, whose taxes are delinquent on said advertised list, must be twice offered for sale, if not sold on the first offer, and if there be no bidder for any parcel or lot of a sum sufficient to pay all taxes, penalty, interest and costs, including cost of advertising, that the sheriff is required to collect by sale of such parcel or lot of land, the same shall be struck off to the county for the whole amount of such taxes, penalty, interest and costs.

§ 50. **If Only Part of Land Sold, How Divided.**—SEC. 139. When a person offers to take a less quantity than the whole tract, lot or parcel of land offered for sale by the sheriff for delinquent taxes, he must not make his selection from or near the center of any division or subdivision assessed, but must start from one of the descriptive points of said tract or lot, and run his lines so that they will not divide any building situated on said land.

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§ 51. **Disposition of Lands Sold to County.**—SEC. 141. Lands or lots once advertised and sold for taxes under this act must not be advertised



and sold again for the same taxes, unless by order of the board of county commissioners, but must remain charged to the county sheriff, and may be redeemed by any person by paying to said treasurer all taxes, penalty, interest and costs charged against such lands or lots.

**§ 52. Entry of Sale.**—SEC. 142. Whenever the sheriff sells any property for taxes, he must enter in the appropriate columns, on the duplicate assessment roll, the amount of interest and costs, date of sale, to whom sold, or if to county, "sold to county;" and whenever property is redeemed, he must enter on said roll the date of redemption, by whom redeemed, and amount paid.

**§ 53. Certificate of Purchase: Substance and Effect of.**—SEC. 143. After receiving the amount of the taxes and costs, and one dollar for the certificate, the sheriff must give to the purchaser a certificate of sale, dated on the day of sale, describing the land so purchased, stating that it was sold for taxes, the date of sale, the amount paid therefor, and, when known, the name of the person assessed for said taxes. The certificate must be signed by the sheriff, in his official capacity, and shall be *prima facie* evidence of the regularity of all prior proceedings.

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**§ 54. Rate of Interest Due Purchaser.**—SEC. 146. The purchaser acquires a lien on the land or lot sold for taxes for the amount paid by him at the sale, and if he subsequently pay any tax levied upon the same, whether for any year or years previous or subsequent to the sale, he shall have the same lien for the taxes so paid, and he shall be entitled to interest on the amount of all taxes paid by him at the rate of 25 per cent. per annum from date of payment.

**§ 55. Certificate is Assignable.**—SEC. 147. The certificate of purchase of any land or lot sold for the taxes assessed thereon may be assigned by the purchaser, his heirs, executors or administrators, to any other person.

**§ 56. Redemption: Limitation and Manner of.**—SEC. 148. All lands, city or town lots sold to actual purchasers may be redeemed by the former owner thereof, his assigns in interest, or creditors having a lien thereon, within two years thereafter, on payment to the purchaser or his assignee of the amount paid by the purchaser at the tax sale, and interest thereon at the rate of 25 per cent. per annum from the date of sale, and all taxes paid by the purchaser or assignee of the purchaser for taxes on the land prior to or since the sale, and interest thereon at the rate of 25 per cent. per annum from the day of payment.

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**§ 57. Land Sold to County not to be Re-offered: Exception.**—SEC. 150. Land heretofore "sold to county" for taxes must not be advertised again for sale for the same taxes, unless by order of the board of county commissioners, duly entered of record in the record of their proceedings, and when so advertised and sold, the entries, taxes, penalties, interest, costs and all transactions relating to the same, must be kept and held separate and distinct from the taxes levied on said lands and the collections of the same under this act.

**§ 58. Redemption of Lands Sold to County.**—SEC. 151. Any person may redeem any tract, lot or parcel of land heretofore sold to the county for taxes, by paying into the county treasury the amount of taxes, penalty, interest and costs due to the county on such tract, lot or parcel of land, taking the treasurer's duplicate receipt therefor, and filing the same with the county auditor, who shall enter in his list of "lands sold to county" opposite of the land redeemed the word "redeemed," and the date of redemption, and if required must give the person filing said receipt a certificate of redemption, and the auditor must charge the treasurer with the amount of money shown to have been paid to him by said receipt.

## CHAPTER VIII.

§ 59. **Tax Deed: When and to Whom Shall Issue—Substance of.**—SEC. 152. If within two years after the sale of any tract or lot of land for taxes the same has not been redeemed, as in this act provided, the lawful holder of the sheriff's certificate of sale shall be entitled to a deed to the land described in said certificate, and upon the surrender of said certificate to the county sheriff and the payment of all subsequent taxes against said land, if there be any, and the redemption of said lands from all former sales to the county not yet redeemed, if there be any, the sheriff must make to the purchaser or his assignee a deed of the property in fee simple, running in the name of the Territory of Washington, and reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed by law for its redemption.

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§ 60. **What Tax Deed Shall Recite.**—SEC. 154. The matter recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged or proved, is *prima facie* evidence that—(1) The property was assessed as required by law. (2) The property was equalized as required by law. (3) The taxes were levied as required by law. (4) The taxes were not paid. (5) At a proper time and place the property was sold as prescribed by law, and by the proper officer. (6) The property was not redeemed. (7) The person who executed the deed was the proper officer. (8) Where the real estate was sold to pay taxes on personal property, that the real estate belonged to the person liable to pay the tax.

§ 61. **Force and Effect of Tax Deed.**—SEC. 155. Such tax deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings from the assessment by the assessor, inclusive, up to the execution of the deed.

§ 62. **Nature of Title Conveyed by Tax Deed.**—SEC. 156. A tax deed executed under this act conveys to the grantee the absolute title to the lands described therein free of all encumbrances, except when the land is owned by the United States or this Territory, in which case it is *prima facie* evidence of the right of possession.

§ 63. **Force and Effect of Assessment Roll.**—SEC. 157. The assessment roll and the duplicate assessment roll or a copy thereof, certified by the county auditor or county treasurer or sheriff, showing unpaid taxes against any person or property, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of taxes, penalty, interest and costs due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

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## CHAPTER X.

§ 64. **Initial Letters, etc., May be Used.**—SEC. 169. In the assessment of land, advertisement and sale thereof for taxes, initial letters, abbreviations and figures may be used to designate the township, range, section or part of sections.

§ 65. **Informalities Shall Not Invalidate Proceedings.**—SEC. 170. No assessment or act relating to assessment or collection of taxes is illegal on account of informality, nor because the same was not completed within the time required by law, and no such act shall affect the validity of any taxes, sales or other proceedings for the collection of taxes under this act, or the validity of a tax deed made pursuant to this act.

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§ 66. **Manner of Publication of Notices.**—SEC. 173. All advertisements and notices provided for in this act which are required to be pub-

lished, including delinquent tax lists, must be published in the weekly newspaper published in the county, or supplement thereto, if there be one; if more than one, then in the official paper published in the county; or if there be none, then in a weekly paper published in the Territory and having the largest circulation in the county for which said publishing is done: *And provided further*, That when the county has no paper published within its limits, the county commissioners shall publish the same in some newspaper published in the Territory and having the largest *bona fide* circulation in the county for which said printing is done, or by posting printed or written notices in at least six of the most public places in the county for three consecutive weeks prior to the first day of sale.

§ 67. **Official Paper to be Designated, etc.**—SEC. 174. In counties where there is no paper published, the board of county commissioners of said county must designate some newspaper published in the Territory and having general circulation in said county, in which the official printing for the county must be done, \* \* \* or may order written notices to be posted up in the several precincts of said county.

§ 68. **Change of Ownership Shall Not Affect Assessment.**—SEC. 177. The assessor must not assess any property to another after the first Monday in April, at 12 o'clock, meridian, because said person has purchased the same since that date, nor because said property has changed hands since said date, but every person must be assessed for the property owned or claimed by him or in his possession or control on said day and hour.

§ 69. **Date in Effect.**—SEC. 191. This act to take effect and be in force from and after the first day of January, A. D. 1880, but not to apply to the collection of any taxes previously levied.

§ 70. **Repealing Clause.**—SEC. 192. The act of 1877, entitled "An act to provide for the assessing and collecting of county and Territorial revenue," \* is hereby repealed, and all other acts or parts of acts and amendments in conflict with the provisions of this act are hereby repealed.

§ 71. **How Taxes Heretofore Assessed, Collected—Tax Deeds.**—SEC. 193. All taxes assessed before this act takes effect must be collected under the act of 1877, entitled "An act to provide for the assessing and collecting of county and Territorial revenue," and the amendments thereto, made at this session, and in case of tax deeds given for the redemption of certificates of purchase at tax sales previously made, said deeds must be executed under the act of 1877.

§ 72. **Who Shall Collect Tax.**—SEC. 195. The intention of this act is to the effect that the treasurer shall be the collector of taxes until the first day of January of each year, and the sheriff shall be the collector of all delinquent taxes.

\*See No. 669, *supra*.

#### No. 671.—CHAPTER CCIX—COUNTY COMMISSIONERS.<sup>1</sup>

§ 1. **How Board Constituted.**—SEC. 2663. There shall be established in each organized county in this Territory a board of county commissioners, to consist of three qualified electors, to be elected by the qualified electors at the general election in 1882, and biennially thereafter, and two of said board of commissioners shall constitute a quorum to do business: *Provided*, That the commissioners now in office, or hereafter appointed to

<sup>1</sup> Approved Nov. 29, 1881. (See Code 1881, p. 463.) For date in effect, repealing clause, etc., see Nos. 338, 339, 340.

said office, shall continue in office until a new board of commissioners shall be elected as above provided: *Provided*, That this section shall not affect the counties of Clarke, Thurston, Yakima, Kitsap and Klickitat, as districted under the act in relation to the election of county commissioners and defining their duties in the counties of Clarke, Thurston, Klickitat, Yakima and Kitsap, approved November 9, 1877.<sup>2</sup>

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§ 2. **Regular Sessions.**—SEC. 2667. The board of county commissioners in the several counties in this Territory may hold regular sessions at the seat of justice of their respective counties, commencing on the first Mondays of February, May, August and November, at each of which they may transact any business which may be required by law; but counties so desiring may omit the February and August terms.

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§ 3. **Powers and Duties.**—SEC. 2673. The several boards of county commissioners are authorized and required—(1) To provide for the erection and repairing of court houses, jails and other necessary public buildings for the use of the county. (2) To lay out, discontinue or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within the limits of the incorporated cities and towns where, by the terms of the acts of incorporation, jurisdiction over the roads in the limits of said incorporations is vested in the corporate authorities thereof. \* \* \* (4) To fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law. \* \* \* (6) To have the care of the county property and the management of the county funds and business, and in the name of the county to prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law.

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§ 4. **No Special Tax: Exception.**—SEC. 2682. The board of county commissioners of the several counties in this Territory shall have no power to levy a special tax for county purposes except in the manner hereinafter provided, unless otherwise specially ordered by special laws.

§ 5. **Special Tax to be Submitted to Vote.**—SEC. 2683. When, in the opinion of the county commissioners of any county, the public good requires a court house, jail or other county building, they shall estimate the cost thereof and submit the same to the people of their county at the next general election, notice thereof being given at the same time and place as for other elections, when, if a majority of the voters of such county shall vote in favor of such special tax, the commissioners shall assess and cause to be collected such tax in the same manner as other county taxes are collected.

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<sup>2</sup> See No. 669, § 7, *supra*.

#### NO. 672.—CHAPTER CCXIX—REVENUE LAW.<sup>1</sup>

§ 1. **What Taxable.**—SEC. 2829. All property, real and personal, within the Territory, except the property of the United States, of the Territory of Washington, of municipal corporations, of school districts, of burial grounds not owned or controlled for speculative purposes, \* \* \* shall be subject to taxation in the manner hereinafter provided.

<sup>1</sup> Approved Dec. 1, 1881. (See Code 1881, p. 488, *et seq.*) For repealing clause, etc., see Nos. 333, 339, 340. The following additional section appears in the original law, on file in the office of the secretary of state: "Sec 162. This act to take effect and be in force from and after the first day of January, A. D. 1882, but not to apply to the collection of any tax previously levied."

## CHAPTER CCXX.

**§ 2. Definition of Terms.**—SEC. 2830. Whenever the terms mentioned in this section are employed in this act, they are employed in the sense hereinafter affixed to them, to wit: *First:* The word "property" includes moneys, credits, dues, stocks, bonds, franchises and all other matters and things, real, personal and mixed, capable of private ownership. *Second:* The term "real estate" includes—(1) The ownership of, claim to, possession of, or right to the possession of, lands; (2) all mines, minerals and quarries in and under the land, and timber of natural growth on the land, and all rights and privileges appertaining thereto; (3) improvements. *Third:* The term "improvements" includes—(1) All buildings, structures, fixtures, fences, clearings and improvements made, erected upon, or affixed to the land; (2) all fruit, nut-bearing or ornamental trees and vines, not of natural growth; (3) the term "personal property" includes everything which is the subject of ownership not included within the meaning of the term real estate; (4) the term of "full cash value" means the amount at which the property would be appraised if taken in payment of a just debt due from a solvent debtor; (5) the words "him" or "his" shall be understood to mean her or hers when property belonging to a female is assessed; (6) the words "county," "auditor," "treasurer," "assessor" or "sheriff," when used in this act, shall be understood to apply to each county, respectively.

## CHAPTER CCXXI.

**§ 3. Assessment Districts Defined—Time of Assessment—Sworn List.**—SEC. 2831. For the purpose of this act, this Territory shall be divided into two districts. The counties of Stevens, Whitman, Columbia, Walla Walla, Yakima, Spokane, Klickitat and Garfield shall constitute the first district, and all other counties shall constitute the second district. In the first district the assessor of each county shall, between the first Monday in April and the first Monday in July in each year, and in the second district between the first Monday in February and the first Monday in May in each year, ascertain by diligent inquiry the names of all persons liable to taxation in his county, and also all the taxable personal property and all real estate therein, and make out an assessment roll of all taxable property, and appraise the same according to the provisions of the statutes relating thereto. Each assessor shall require every person liable to be taxed in his county, when personally called upon, to furnish him a list of his real estate situated in his county liable to taxation, and a list of all personal property owned by every such person liable to taxation that he had in the first district, on the first Monday of April, at 12 o'clock, meridian, and in the second district on the first Monday of February, at 12 o'clock, meridian, stating the same in detail, and shall require such person to make oath that to the best of his knowledge and belief such list contains a full and true account of all his property liable to be taxed in his county, in the first district on the first Monday of April, at 12 o'clock, meridian, and in the second district on the first Monday of February, at 12 o'clock, meridian; and if any person shall refuse to furnish such list, or to swear to the same when required so to do by the assessor, such person shall forfeit and pay to the assessor for the use of the county the sum of fifty dollars, which sum may be recovered by action in any court having jurisdiction of matters of debt or contract to the amount of fifty dollars and costs of suit; such suit to be prosecuted by and in the name of the county.

**§ 4. Substance of Roll.**—SEC. 2832. The assessor shall set down in an assessment roll, to be prepared by himself, in separate columns, and according to the best information he can obtain—(1) The names, alphabetically arranged, of all persons subject to taxation in his county, and numbers of the road and school districts of which each person assessed is a



resident. (2) A description of each tract or parcel of land to be taxed, specifying under separate heads the township, range and section, and the number of the school and road district in which the land lies; or if divided into lots and blocks, then the number of the lot and block. (3) The number of acres and parts of an acre, as near as the same can be ascertained, unless the land be divided into lots and blocks. (4) The number of acres and parts of acres in each parcel of land, except town or city lots, that are improved or cultivated. (5) The full cash value of the improvements upon each lot or parcel of land assessed. (6) The full cash value of each lot or parcel of land assessed. (7) The full cash value of all the taxable personal property owned by or to be taxed against such persons, as provided by law. (8) The total valuation of all property assessed, real and personal. (9) The amount of road poll tax of each person or firm liable for the same. (10) The amount of poll tax of each person or firm liable for the same.

§ 5. **Land and Improvements to Be Assessed Separately.**—SEC. 2833. The assessor must assess each description of land separately, and the improvements upon the same separately.

§ 6. **Penalty for Failure to Furnish Sworn List.**—SEC. 2835. If a person, after demand made by the assessor, neglects or refuses to give, under oath, the statement herein provided for, or to comply with the requirements of this act, such person shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, to be recovered by suit in the name of the county, or by indictment; and no property shall be exempt from executions issued on judgments by suit or indictments under the provisions of this section.

§ 7. **Assessment of Known and Unknown Owner.**—SEC. 2837. If the name of the absent owner is known to the assessor, the property must be assessed in his name; if unknown, the property must be assessed to "unknown owners."

§ 8. **Assessment as Trustee, etc.**—SEC. 2839. When a person is assessed as agent, trustee, bailee, guardian, executor or administrator, his representative designation must be added to his name, and the assessment entered on a separate line from his individual assessment.

§ 9. **Assessment of Property of Private Corporations.**—SEC. 2841. The property of every firm and corporation must be assessed in the county where the property is situated, and must be assessed in the name of the firm or corporation, unless otherwise provided by law.

§ 10. **Assessment of Property of Decedent.**—SEC. 2842. The undistributed or unpartitioned property of deceased persons may be assessed to the heirs, guardians, executors or administrators, and a payment of taxes made by either binds all the parties in interest for their equal proportions.

§ 11. **How Property Omitted From Previous Assessment Shall be Assessed.**—SEC. 2847. Any property which has escaped assessment for the last preceding year, if such property is in the ownership or under the control of the same person who owned or controlled it for such preceding year, it shall be assessed for such preceding year, which shall be noted as a correction of the assessment of such preceding year.

§ 12. **Assessment of Property of Railroad Companies.**—SEC. 2850. Lands, lots and other real estate situate in the Territory belonging to any railroad company or corporation not exclusively used in the opera-

tion of said railroad, shall be assessed and taxed on the same basis as the property of individuals in the several counties where situated.

§ 13. **Rights-of-Way, etc., Shall Not be Assessed as Part of Adjacent Lands.**—SEC. 2851. No real estate used by railway corporations for roadbeds shall be included in the assessment to individuals of the adjacent property, but all such real estate shall be deemed to be the property of such companies for the purpose of taxation; nor shall real estate occupied or used as a public highway be assessed and taxed as part of adjacent lands from whence the same was taken for such public purpose.

§ 14. **Assessment of Rights-of-Way.**—SEC. 2852. The land occupied and claimed exclusively as the right-of-way for railroads, by railroad companies or corporations, with the track and all the sub-structures and superstructures which support the same, must be assessed as a whole and as real estate, without separating the same into lands and improvements, at a certain sum per mile; and all such real estate situated in the Territory, and claimed by any railroad company as such right-of-way, shall be deemed to be the property of such company for the purpose of taxation.

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§ 15. **Assessment of Ditches, Roads, etc.**—SEC. 2856. All water ditches constructed for mining, manufacturing or irrigation purposes, and wagon or turnpike toll roads, with all improvements attached to such properties, must be listed and assessed as real improvements, without separating the land and improvements, either in the description or valuation of the same, at a certain sum per mile, \* \* \*

§ 16. **Assessment of Telegraph and Express Companies.**—SEC. 2857. All property, real and personal, including their franchises, owned by telegraph and express companies, and situated in the Territory, must be listed and assessed for taxation, and shall be subject to the same levies as the property of individuals and the same rules that govern other companies or corporations.

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§ 17. **Assessment of Mineral and Timber Lands.**—SEC. 2859. All lands known to contain mines, minerals, quarries, gypsum and natural timber of value, shall be assessed according to their full cash value, which shall include the value of said mines, minerals, quarries, gypsum and timber; and the assessor shall note on his assessment roll, immediately under the description of said lands, their nature, whether coal mines, gold mines, silver mines, copper mines or iron mines.

§ 18. **Improvements of Settlers.**—SEC. 2860. The assessor must assess all improvements on public lands as personal property until the settler thereon has made "final proof;" if, however, in case of preemption claims, the entire purchase money has been paid by the preëmptor and a certificate issued therefor, the land itself must be assessed, notwithstanding the patent has not issued.

§ 19. **Debts May be Deducted.**—SEC. 2861. Any person may deduct from his unsecured credits all *bona fide* debts due and owing by him, whether on account, contract, note, mortgage or otherwise.

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CHAPTER CCXXII.

§ 20. **Board of Equalization: Terms of.**—SEC. 2873. The board of county commissioners of each county shall constitute a board for the equalization of taxes for its respective county, and shall annually hold a session for the equalization of assessments and the correction of the assessment roll, which term shall commence in the first district on the first Monday of the regular August term, in the second district on the first Monday of the regular May term of each year, and continue until such business is completed: *Provided*, That said term shall not exceed two weeks in one county for this purpose.

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§ 21. **Powers and Duties of Board.**—SEC. 2877. The board for the equalization of taxes shall, at its session, examine the assessment roll of the county filed for that year, and shall have power to correct the same by directing the clerk of the board to make alterations in the description of lands or other property listed upon such roll when it shall be necessary to make such description conformable to the requirements of law, and may direct the clerk to make any other alterations in such roll that it may deem necessary to make the same conform to the requirements of law. The board shall at said session hear and determine all matters concerning assessments, and may subpoena such witnesses, hear and take such evidence in relation to the subject-matter pending as in its discretion it may deem proper, and shall raise or reduce, as the case may require, all appraisements of property found to be below or above the average valuation of property of the same or similar kind as made by the assessor, so as to make taxation equal and uniform, and direct the clerk to enter such raise or reduction upon the assessment roll: *Provided*, That in the equalization of assessments the board shall be governed by the value of the property on the first Monday of April in the first district, and the first Monday in February in the second district in said year: *And provided also*, That no assessment shall be raised unless two days' notice in writing be first given to the party affected.

§ 22. **Property Omitted Must Be Assessed.**—SEC. 2878. The board must also direct the clerk to place upon and add to the assessment roll any property, real or personal, subject to taxation, which it may discover to have been omitted by the assessor, and must assess the same to a just and uniform value, as compared with the average valuation of property of the same or similar kind as made by the assessor.

§ 23. **Effect of Failure to Apply for Equalization.**—SEC. 2879. During the session of the board for the equalization of taxes and the correction of the assessment roll, any person, or his attorney or agent, may attend and apply for the correction of any alleged error in the listing and valuation of his property, and a failure to so attend and apply shall bar said person from further recourse in law as to the valuation, but not as to error in description or to double assessment.

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CHAPTER CCXXIII.

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§ 24. **Amount and Levy of Tax.**—SEC. 2881. The board of county commissioners in each county shall, annually, at their May term, levy the following taxes upon the assessed value of the taxable property in the county: (1) For Territorial revenue, two and one-half mills. (2) For ordinary county revenue, not to exceed eight mills. (3) For support of schools, not to exceed six mills. (4) For roads, not to exceed five mills. For roads and bridges, the county commissioners may levy not to exceed two mills, to be collected in cash: *Provided*, That in the county of Lewis said tax shall be applied to the building and repairing of bridges only.

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CHAPTER CCXXIV.

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§ 25. **Warrant for Collection.**—SEC. 2887. On or before the first Monday of October in each year, the auditor must deliver to the county treasurer the copy of the assessment roll, to be styled and designated the "duplicate assessment roll of the county of —, W. T., for the year 18—," with his, the said auditor's, warrant thereto affixed, in the following words:

TERRITORY OF WASHINGTON, {  
COUNTY OF —, ss.

The United States of America to —, county treasurer for — county, W. T., greeting: In the name of the United States you are hereby commanded to collect the

taxes charged in this duplicate assessment roll of said county for the year 18—, as required by law.

Witness my hand and official seal of office this — day of —, 18—.

County Auditor for —, W. T.

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#### CHAPTER CCXXV.

§ 26. **Who Shall Collect Taxes.**—SEC. 2892. The county treasurer of each county in the Territory shall be the collector of taxes for his respective county, except as herein provided for the collection of poll and road taxes.

§ 27. **Authority for Collection.**—SEC. 2893. The duplicate assessment roll, with the warrant of the county auditor thereto affixed, shall be full and sufficient authority for the county treasurer to collect taxes therein levied.

§ 28. **Notice to Taxpayers.**—SEC. 2894. The county treasurer, within ten days after the receipt of the "duplicate assessment roll," must publish an official notice, specifying—(1) That the "duplicate assessment roll" of the county for the year 18— is now in his possession for collection of the taxes levied therein. (2) That taxes will be delinquent on the 31st day of December next thereafter, at 6 o'clock P. M., and that unless paid prior thereto, ten per cent. will be added to the amount thereof as penalty, and interest charged at the rate of twenty per cent. per annum from date of delinquency until paid. (3) The time and place at which payment of taxes may be paid.

§ 29. **Publication of Notice.**—SEC. 2895. The notice must be published four consecutive weeks in the weekly newspaper published in the county, or in some newspaper published in the Territory, of general circulation in the county; or, if there be no paper published in said county, it shall be the duty of the treasurer to post written notices in at least three public places in said county.

§ 30. **Manner of Payment.**—SEC. 2896. No demand for taxes shall be necessary, but it shall be the duty of every person subject to taxation under this act to attend in person, or by agent or attorney, at the office of the county treasurer, and pay his taxes before the same become delinquent.

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§ 31. **Taxes on Estate of Decedent Must be Paid Before Distribution.**—SEC. 2900. The probate judge must require every administrator and executor to pay out of the funds of the estate all taxes due from such estate; and no order or decree for the distribution of any property of any decedent among the heirs or devisees must be made until all taxes against the estate are paid.

§ 32. **When Taxes Delinquent.**—SEC. 2901. On the thirty-first day of December in each year, at 6 o'clock P. M., all unpaid taxes are delinquent, and thereafter the sheriff must collect thereon, at the same time and in the same manner that the tax is collected, ten per cent. additional as penalty, and interest at the rate of ten per cent. per annum from said date until paid.

§ 33. **Duplicate Roll: Correction of Errors—Who Shall Collect Taxes.**—SEC. 2902. On the first Tuesday in January in each year, the treasurer of each county must attend at the office of the county auditor with the duplicate assessment roll, and every item marked "paid" in such duplicate assessment roll must be marked "paid" in the "original assessment roll," with the date of payment of each, and every item marked "error" or "double assessment" in the duplicate must be marked the same in the original: *Provided*, The auditor shall be satisfied that the same are "errors" or "double assessments," and the delinquent taxes

must then be extended on each roll in the columns prepared for the same, with the ten per cent. penalty added, and the footings of the delinquent taxes in the original and duplicate rolls must agree: *Provided*, That the treasurer shall not be the collector of taxes, after the first day of January of each year, but shall, after he has made his comparison with the auditor, turn over the duplicate assessment roll to the sheriff of the county, who shall collect the delinquent taxes, as in this act provided,  
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§ 34. **Collection of Delinquent Taxes.**—SEC. 2908. Immediately after taxes have become delinquent in each year, and the footings are made as required in the preceding section, the sheriff must proceed to collect the same by distraint and sale of the personal property of the persons whose taxes are delinquent on his list: *Provided*, That nothing herein contained shall be so construed as to exempt any property from sale for the payment of taxes.

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§ 35. **Treasurer, etc., May Correct Errors.**—SEC. 2913. If during the collection of taxes the treasurer or sheriff, or his deputy, shall discover that an error has been made in entering the initials or name of any person, or in the description of his property, on the duplicate assessment roll, he may correct such error so that the tax may be collected from the person intended, and the description of property correspond with the property owned by the person taxed.

§ 36. **Treasurer, etc., May Assess Property Omitted.**—SEC. 2914. Whenever the treasurer or sheriff discovers that any land or other taxable property has been omitted from the last assessment roll in his hands, he must list the same on said roll, under the head of "treasurer's or sheriff's supplemental assessment for the year (naming it)," estimate the tax thereon according to the last levy by the board of county commissioners, and collect said taxes the same as other taxes are collected.

§ 37. **Return of Sheriff.**—SEC. 2915. On the first Monday in April of each year the sheriff or his deputy must enter in the "duplicate assessment roll," immediately following his supplemental assessment, the following affidavit, and subscribe to the same before the county auditor or his deputy, to wit:

TERRITORY OF WASHINGTON, } ss.  
COUNTY OF \_\_\_\_\_,

I, \_\_\_\_\_, sheriff (or deputy, as the case may be), do solemnly swear (or affirm) that I have made due and diligent search to find sufficient personal property, subject to levy, belonging to and owned by each person whose tax is now delinquent on this "duplicate assessment roll," and that I have been unable to find any such property from which to make said tax: So help me God.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

Auditor for \_\_\_\_\_ County, W. T.

§ 38. **Time and Place of Sale.**—SEC. 2916. On the first Monday of May in each year, at 10 o'clock A. M., at the county seat of each county, the sheriff thereof, or his deputy, must commence the sale, at public auction, of real estate upon which taxes have been levied and not paid. The sale of real estate for delinquent taxes may be at the office of the sheriff, or at the court house of the county, as the sheriff may elect, by notice duly given at the time of publication of the delinquent list.

§ 39. **Notice of Sale: Manner and Substance of.**—SEC. 2917. The sheriff must give notice of the sale of real property for taxes by publishing for three consecutive weeks the delinquent list, with total amount of taxes, including penalty, interest and costs to date of sale, in the weekly newspaper published in the county, or supplement thereto, if there be one; or if there be two or more newspapers published in said county, then in the official paper published in said county, or supplement thereto; or



if there be no paper published in the county, then in some newspaper published in the Territory and having a general circulation in the county for which said printing is done; or the sheriff of such county may give said notice by posting printed or written notices in at least six of the most public places in the county for three consecutive weeks prior to the first day of sale. Said notices must contain a notification that all real estate upon which the taxes for the preceding year (naming it) have not been paid will be sold at public auction, or a sufficient portion thereof to satisfy all taxes, penalties, interest and costs due to the county from the owners thereof for said year, the time and place of such sale, a description of all lands, city and town lots to be sold, and the names of the persons to whom the same are assessed, or to "owners unknown," as the case may be.

**§ 40. Manner of Sale.**—SEC. 2018. On the day fixed for sale, and on each subsequent day adjourned to, the sheriff, between the hours of 10 o'clock A. M. and 3 o'clock P. M., must offer for sale the property advertised (unless all taxes, penalty, interest and costs against any specific tract thereof have been previously paid), commencing at the head of the list and continuing alphabetically with the names of the persons whose taxes are delinquent, and must sell to the persons who will take the least quantity of land offered, or in case an individual interest is assessed, then the smallest portion of the interest, and pay all the taxes, penalty, interest and costs.

**§ 41. In What Case County Shall Purchase.**—SEC. 2019. The land assessed to each person, corporation or company whose taxes are delinquent on said advertised list, must be twice offered for sale, if not sold on the first offer, and if there be no bidder for any parcel or lot, of a sum sufficient to pay all taxes, penalty, interest and costs, including cost of advertising, that the sheriff is required to collect by sale of such parcel or lot of land, the same shall be struck off to the county for the whole amount of such taxes, penalty, interest and costs.

**§ 42. If Only Part of Land Sold, How Divided.**—SEC. 2020. When a person offers to take a less quantity than the whole tract, lot or parcel of land offered for sale by the sheriff for delinquent taxes, he must not make his selection from or near the center of any division or subdivision assessed, but must start from one of the descriptive points of said tract or lot and run his lines so that they will not divide any building situated on said land.

**§ 43. Disposition of Lands Sold to County.**—SEC. 2023. Lands or lots once advertised and sold for taxes must not be advertised and sold again for the same taxes unless by order of the board of county commissioners, but must remain charged to the sheriff, and may be redeemed by any person by paying to said sheriff all taxes, penalty, interest and costs charged against such lands or lots.

**§ 44. Entry of Sale.**—SEC. 2024. Whenever the sheriff sells any property for taxes, he must enter in the appropriate columns on the duplicate assessment roll the amount of interest and costs, date of sale, to whom sold, or, if to the county, "sold to county."

**§ 45. Certificate of Purchase: Substance and Effect of.**—SEC. 2025. After receiving the amount of the taxes and costs and one dollar for the certificate, the sheriff must give to the purchaser a certificate of sale, dated on the day of sale, describing the land so purchased, stating that it was sold for taxes, the date of sale, the amount paid therefor, and, when known, the name of the person assessed for said taxes. The certificate must be signed by the sheriff in his official capacity, and shall be *prima facie* evidence of the regularity of all prior proceedings.

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**§ 46. Rights and Interest of Purchaser.**—SEC. 2028. The purchaser acquires a lien on the land or lot sold for taxes for the amount paid by

him at the sale, and if he subsequently pay any tax levied upon the same, whether for any year or years previous or subsequent to the sale, he shall have the same lien for the taxes so paid; and he shall be entitled to interest on the amount of taxes paid by him at the rate of twenty per cent. per annum from date of payment.

§ 47. **Certificate is Assignable.**—SEC. 2929. The certificate of purchase of any land or lot sold for taxes assessed thereon may be assigned by the purchaser, his heirs, executors or administrators, to any other person.

§ 48. **Redemption: Limitation and Manner of.**—SEC. 2930. All lands, city and town lots sold to actual purchasers shall be subject to redemption by the former owner thereof within three years thereafter, on the payment of the delinquent taxes with twenty per cent. per annum interest, costs, charges and the accruing tax to the purchaser, who shall receipt therefor, or to the county treasurer for the use of such purchaser, and if no receipt of such purchaser shall be filed with such treasurer, or no such payment be made to him, the holder of the certificate of purchase shall be entitled to receive a deed.

§ 49. **Redemption of Land Sold to County.**—SEC. 2931. Lands, and city and town lots sold to the county may be redeemed by the former owner thereof by such owner obtaining from the county auditor a certified statement of the amount of all taxes, interest, costs and accrued taxes charged to such land or lots, and paying such amount to the county treasurer, who shall give him a receipt therefor; and the county auditor, on filing such receipt, shall give to such owner a certificate of redemption of such land, city or town lots, signed by him in his official capacity, and sealed with the seal of the board of county commissioners, and shall charge such treasurer with the amount of such receipt, and shall omit such land, city or town lots so redeemed, from his list of county lands.

§ 50. **Land Sold to County Not to be Re-offered.**—SEC. 2933. Land heretofore sold to county for taxes must not be advertised again for sale for the same taxes unless by order of the board of county commissioners, duly entered of record, and when so advertised and sold, the entries, taxes, penalties, interest, costs and all transactions relating to the same must be kept and held separate and distinct from the taxes levied on said lands and the collections of the same under this act.

#### CHAPTER CCXXVI.

§ 51. **Tax Deed: When and to Whom Shall Issue—Substance of.**—SEC. 2934. If, within three years after the sale of any tract or lot of land for taxes the same has been not redeemed as provided, the lawful holder of a valid certificate of the sale shall be entitled to a deed to the land described in said certificate; and upon the surrender of said certificate to the sheriff and the payment of all subsequent taxes against said land, if there be any, and the redemption of said lands from all former sales to the county not yet redeemed, if there be any, the sheriff must make to the purchaser or his assignee a deed of the property in fee simple, running in the name of the Territory of Washington, and reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed by law for its redemption.

§ 52. **What Tax Deed Shall Recite.**—SEC. 2936. The matter recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged or proved, is *prima facie* evidence that—(1) The property was assessed as required by law. (2) The property was equalized as required by law. (3) The taxes were levied as required by law. (4) The taxes were not paid. (5) At a proper time and place the prop-

erty was sold as prescribed by law, and by the proper officer. (6) The property was not redeemed. (7) The person who executed the deed was the proper officer.

§ 53. **Force and Effect of Tax Deed.**—SEC. 2937. Such tax deed, duly acknowledged or proven, is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings, from the assessment by the assessor, inclusive, up to execution of the deed.

§ 54. **Nature of Title Conveyed by Tax Deed.**—SEC. 2938. A tax deed, executed under this act, conveys to the grantee the absolute title to the lands described therein, free of all encumbrances, except when the land is owned by the United States or this Territory, in which case it is *prima facie* evidence of the right of possession.

§ 55. **Limitation of Action to Recover Land Sold at Tax Sale.**—SEC. 2939. Any suit or proceeding for the recovery of lands sold for taxes, except in cases when the taxes have been paid on the land redeemed as provided by law, shall be commenced within three years from the time of recording the tax deed of sale, and not thereafter, except by the purchaser at the tax sale.

§ 56. **Force and Effect of Assessment Roll.**—SEC. 2940. The assessment roll and the duplicate assessment roll, or a copy thereof, certified by the county auditor, or county treasurer or sheriff, showing unpaid taxes against any person or property, are *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of taxes, penalty, interest and costs due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

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CHAPTER CCXXVIII.

§ 57. **Initial Letters May be Used.**—SEC. 2951. In the assessment of land, advertisements and sale thereof for taxes, initial letters, abbreviations and figures may be used to designate the township, range, section or part of sections.

§ 58. **Informalities Shall Not Invalidate Proceedings.**—SEC. 2952. No assessment or act relating to assessment or collection of taxes is illegal on account of informality, nor because the same was not completed within the time required by law, and no such act shall affect the validity of any taxes, sales or other proceedings for the collection of taxes under revenue law, or the validity of a tax deed made pursuant to said law.

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§ 59. **Manner of Publication of Notices.**—SEC. 2955. All advertisements and notices provided for in revenue law, which are required to be published, including delinquent tax lists, must be published for three consecutive weeks in the weekly newspaper published in the county, or supplement thereto, or in some newspaper published in the Territory and of general circulation, if there be one; if more than one, then in the official paper published in the county; or if there be none, then in a weekly paper published in the Territory, and having the largest circulation in the county for which said publishing is done. In counties where there is no paper published, the board of county commissioners of said county must designate some newspaper published in the Territory and having general circulation in said county in which the official printing for the county must be done, and for this purpose it must solicit bids to do said printing; or may order written notices to be posted up in several precincts of said county. If not published in a newspaper, the said notices must be posted in at least six of the most public places in the county for three weeks.

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**§ 60. Change of Ownership Shall Not Affect Assessment.**—SEC. 2958. The assessor must not assess any property to another in the first district after the first Monday in April, or in the second district after the first Monday in February,<sup>2</sup> at 12 o'clock, meridian, because said person has purchased the same since that date, nor because said property has changed hands since said date; but every person must be assessed for the property owned or claimed by him, or in his possession or control, on said day and hour, and the assessor who violates this provision knowingly subjects himself to a fine of fifty dollars for each violation.

**§ 61. How Taxes Heretofore Assessed, Collected—Tax Deeds.**—SEC. 2968. All taxes heretofore assessed must be collected under the act of 1879, entitled "An act to provide for the assessing and collecting of county and territorial revenue,"<sup>2</sup> and the amendments thereto made at this session, and in case of tax deeds, given for the redemption of certificates of purchase at tax sales previously made, said deeds must be executed under the act of 1879.

**§ 62. Repealing Clause.**—[SEC. —. All acts and parts of acts in conflict with this act are hereby repealed: *Provided*, That all taxes assessed before this act takes effect must be collected under the act of 1879, entitled "An act to provide for the assessing and collecting of county and territorial revenue," and the amendments thereto made at this session, and in case of tax deeds, given for the redemption of certificates of purchase of tax sales previously made, said deeds must be executed under the act of 1879.<sup>2</sup>]

## CHAPTER CCXXIX.

**§ 63. Collection of Road Taxes.**—SEC. 2991. The road supervisors shall proceed to collect the road taxes in their respective districts in the manner hereinafter provided, and it shall be the duty of each supervisor of roads in the several counties in this Territory to return their road lists to the county auditors of their respective counties on or before the thirty-first day of December in each year, properly certified to, showing the amounts paid thereon, by whom paid, and whether the amounts so paid were paid in work or money. They shall also, at the same time, return to the auditors a delinquent list, showing the names of all persons who have failed to pay their road taxes for the current year, together with the amount due from each. The county auditors shall add a penalty of twenty-five per centum to all road taxes so returned delinquent, and shall place the names of the persons so delinquent, together with the amount due from each, on the regular delinquent tax list, and charge the amount of such delinquent road taxes to the sheriff, who shall collect the same in the manner and at the time he collects other delinquent taxes: *Provided*, That in the counties of Columbia, Klickitat, Skamania, Spokane, Stevens, Walla Walla, Whitman and Yakima the road supervisors may retain their road lists for the period of twelve months before returning their delinquent lists, and such delinquent road taxes shall be added to the next regular delinquent list, and collected as hereinbefore provided. \* \* \*

**§ 64. Levy and Amount of Road Tax.**—SEC. 2992. Whenever the supervisor shall, from any cause, have neglected or omitted to place on his list the name of any person or property within the time required by law, he may at any time afterwards place the name of any such person or property on the list and assess the road tax due, which assessment shall in all respects be valid as if made in due form. It shall be the duty of the county commissioners of the several counties to levy and assess a road tax of four dollars on every male person liable to perform labor on

<sup>2</sup> See No. 670, *supra*. The *proviso* of § 62 is evidently a repetition of § 61, but so appears in the Code.

the public roads, between the ages of twenty-one and fifty years, except persons that are a public charge or too infirm to perform labor, idiotic and insane persons, and an active fireman who has been a member of any fire company in this Territory for a period of one year preceding the assessment of taxes; also assess not less than one nor more than five mills on every dollar's worth of property as returned by the county assessment, which tax shall be paid in money, or in labor at the rate of two dollars per day: *Provided*, That the county commissioners may, in addition, levy a special tax of two mills on every dollar's worth of property as returned by the assessor, which tax shall be paid in money, at the time and in the manner provided for the payment of county and Territorial taxes; \* \* \*

§ 65. SEC. 2993. The supervisor must notify every person within his road district, subject to road labor as aforesaid, to perform the work assessed on the public roads or bridges within his district; and if any person subject to road labor as aforesaid shall, after three days' notice, either personally or by writing left at his usual place of abode, or sent by mail to his postoffice address, by the supervisor, or by any other person by his direction, neglect or refuse to attend by himself or substitute, at the time and place designated by the supervisor, or having attended shall refuse to obey the directions of the supervisor, or shall pass his time in idleness or inattention to the labor or duties assigned, every such delinquent shall thereby become liable to an additional assessment of twenty per cent. of his original tax; upon refusal to comply with the directions or orders of said supervisor, he shall return the same as delinquent, to be collected as by law provided for delinquent taxes. \* \* \*

#### CHAPTER CCLVI.

§ 66. **Extending Time Within Which Taxes for 1881 May be Paid.**—SEC. 3326. The taxes levied for the year 1881 shall not become delinquent until 6 o'clock P. M. of the 28th day of February, 1882. From and after the first day of March, 1882, the sheriff shall be collector of said delinquent taxes for 1881. On the first Thursday of March, 1882, the county treasurer must attend at the office of the county auditor and perform the duty required by section 113 of "An act to provide for the assessing and collecting of county and Territorial revenue, approved November 14, 1879." The sheriff, as collector of delinquent taxes, shall follow the provisions of said act, conforming to the changes of date, and having until the third Monday of April, 1882, in which to enforce the collection of taxes by restraint of personal property. On the first Monday of June, 1882, the said sheriff, as collector of delinquent taxes, having made due advertisement, as prescribed by said law, said sheriff, changing only the dates to conform to this act, shall commence the sale at public auction of real estate upon which taxes were levied for the year 1881.

§ 67. **Law Governing Proceedings.**—SEC. 3327. In other respects, except as to the dates being altered, as herein provided, to secure an extension of time within which said taxes may be paid, the proceedings shall be as prescribed in the revenue law approved November 14, 1879.

#### **No. 673.—AN ACT TO PROVIDE FOR THE LEVY AND COLLECTION OF TAXES UPON THE PROPERTY OF RAILROAD COMPANIES IN THIS TERRITORY.**<sup>1</sup>

§ 1. **Percentage of Gross Earnings in Lieu of All Taxes.**—*Be it enacted, etc.* SECTION 1. In lieu of any and all other taxes upon any railroad, except railroads operated by horse power, within this Territory, or upon

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 61.) All conflicting acts or parts of acts repealed. In effect from date.



the equipment, appurtenances or appendages thereof, or upon any other property situated in this Territory belonging to the corporation owning or operating such railroads, or upon the capital stock or business transactions of such railroad company, there shall hereafter be paid into the treasury of this Territory a percentage of all the gross earnings of the corporation owning or operating such railroad arising from the operation of such railroad as shall be situated within this Territory, as hereinafter stated—that is to say: Every such railroad corporation or person operating a railroad in this Territory shall pay to said treasurer each year, for the first five years after said railroad shall be or shall have been operated, in whole or in part, two (2) per centum of such gross earnings; and for and in each and every year after the expiration of the said five years, three (3) per centum of the said gross earnings; and the payment of such per centum annually, as aforesaid, shall be and is in full of all taxation and assessments whatever upon the property aforesaid. The said payments shall be made, one-half ( $\frac{1}{2}$ ) on or before the 15th day of February, and one-half ( $\frac{1}{2}$ ) on or before the 15th day of August, in each year; and for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this Territory on or before the first day of February in each year; the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of said company; and for the purpose of ascertaining the truth of such affidavits, and the correctness of such abstracts, full power is hereby vested in the governor of this Territory, or any other person appointed by law, to examine, under oath, the officers and employees of said company, or other persons; and if any person so examined by the governor or other authorized person shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for the purpose of securing to the Territory the payment of the aforesaid percentum, it is hereby declared that the Territory shall have a lien upon the railroad of said company, and upon all property, estate and effects of said company whatsoever, personal, real or mixed, and the lien hereby secured to the Territory shall have and take precedence of all demands, decrees and judgments against said company.

**§ 2. Proceedings, if Company Fail to Make Proper Returns.**—SEC. 2. If any railroad company in this Territory shall fail to make returns of its gross earnings as aforesaid, or of any part thereof, at the time and in the manner provided by law, and such default shall continue during the period of thirty (30) days, such company shall be subject to a penalty in an amount equal to twenty-five (25) per cent. of the tax imposed upon such company by this act; and the treasurer of the Territory shall forthwith ascertain the amount of such tax justly due from such company, as nearly as may be, from such evidence as may be available, and shall thereupon collect such tax as so ascertained, together with the said penalty thereon. The amount of tax ascertained by the Territorial treasurer as in this section provided shall, together with the said penalty thereon, be by him entered in the books of his office; and such entry when so made shall stand in the place of the report required by law to be made by such company, and shall in all courts within this Territory be evidence of the amount of such tax and penalty, and of the other facts stated therein in pursuance of this act.

**§ 3. Penalty for Failure to Pay Taxes Due.**—SEC. 3. In case any railroad company shall fail or neglect to pay the taxes reported by it to be due, in pursuance of this act, for the period of thirty (30) days after the same shall have become due by the terms thereof, in such case there shall be added to the amount of such tax ten (10) per centum thereof, as a penalty for such failure or neglect to pay.

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§ 4. **Lands Shall be Subject to Taxation Upon Alienation by Company.**—SEC. 5. The lands of any railroad company shall become subject to taxation, in the same manner as other similar property, as soon as the same are sold, leased or contracted to be sold or leased; and on or before the first day of April of each year, each railroad company having land within this Territory shall return to the county auditor of each county full and complete lists, verified by the affidavits of some officer of the company having knowledge of the facts, of all lands of such company situated in said county, sold or contracted to be sold or leased during the year ending the last day of December preceding; and the list furnished on or before the first day of April, A. D. 1884, in compliance with the terms of this section, shall include a complete list of all lands sold or leased, or contracted to be sold or leased, prior to the last day of December, A. D. 1883.

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**No. 674.—AN ACT TO CORRECT ERRORS AND SUPPLY OMISSIONS IN THE CODE OF WASHINGTON.<sup>1</sup>**

§ 1. **Amount of Tax.**—*Be it enacted, etc.* SECTION 1. That for the purpose of correcting errors and supplying omissions in the code so as to make the same truly express such laws, the following amendments are hereby made therein: \* \* \* *Tenth:* \* \* \* "Sec. 2881.<sup>2</sup> The board of county commissioners in each county in the first assessment district shall, annually, at its August term, levy the following taxes on the assessed value of the taxable property in the county: (1) For Territorial revenue, two and one-half mills; (2) for ordinary county revenue, not to exceed eight (8) mills; (3) for support of schools, not to exceed six mills; (4) for roads, not to exceed five mills. For roads and bridges, the county commissioners may levy not to exceed two mills, to be collected in cash: \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 44.) In effect from date.

<sup>2</sup> See No. 672, § 24, *supra*.

**No. 675.—AN ACT EXTENDING THE TIME WITHIN WHICH THE TAXES OF 1885 MAY BE PAID.<sup>1</sup>**

§ 1. **When Taxes Delinquent.**—*Be it enacted, etc.* SECTION 1. The taxes levied for the year 1885 shall not become delinquent until six o'clock P. M. on the 28th of February, 1886. From and after the 1st day of March, 1886, the sheriff shall be collector of said delinquent taxes for 1885. On the first Thursday of March, 1886, the county treasurer must attend at the office of the county auditor and perform the duties required by section 2902 of the Code of Washington.<sup>2</sup> The sheriff, as collector of delinquent taxes, shall follow the provisions of the law regulating the collection of delinquent taxes, conforming to the changes of date in this act: *Provided*, And having until the third Monday in April, 1886, in which to enforce the collection of taxes by distraint of personal property. On the first Monday of June, 1886, the said sheriff, as collector of delinquent taxes, having made due advertisement as prescribed by said law, said sheriff, changing only the dates to conform to this law, shall commence the sale, at public auction, of real estate upon which taxes were levied for the year 1885.

§ 2. **Law Governing Proceedings.**—SEC. 2. In other receipts,<sup>3</sup> except as to dates being altered as herein provided to secure an extension

<sup>1</sup> Approved January 5, 1886. (See Tenth Bien. Sess. 1885-86, p. 89.) All conflicting acts and parts of acts are repealed. In effect from date.

<sup>2</sup> See No. 672, § 33, *supra*.

<sup>3</sup> Respects.

of time within which said taxes may be paid, the proceedings shall be as in the revenue law now in force.

§ 3. **Scope of This Act.**—SEC. 3. The provisions of this act shall only apply to the taxes levied in the year 1885.

\* \* \* \* \*

**No. 676.—AN ACT TO AMEND SECTIONS 2930 AND 2931 OF THE CODE OF WASHINGTON TERRITORY, IN RELATION TO THE REDEMPTION OF LANDS SOLD FOR TAXES.<sup>1</sup>**

§ 1. **Redemption: Limitation and Manner of.**—*Be it enacted, etc.* SECTION 1. That section 2930<sup>2</sup> be amended to read as follows: Sec. 2930. All lands, city and town lots, sold to actual purchasers, shall be subject to redemption by the former owner, mortgagors, execution or attaching creditors, within three years thereafter, on the payment of the delinquent taxes, with twenty (20) per cent. per annum interest, costs, charges, and the accruing taxes, to the purchasers, who shall receipt therefor, or to the county treasurer for the use of such purchaser, and if no receipt of such purchaser shall be filed with such treasurer, or no such payment be made to such treasurer, the holder of the certificate of the purchase shall be entitled to receive a deed.

§ 2. **Redemption of Lands Sold to County.**—SEC. 2. Section 2931<sup>3</sup> shall be amended to read as follows: Sec. 2931. Lands and city and town lots, sold to the county for the payment of taxes, may be redeemed by the person, or either of them, mentioned in section 2930, by obtaining from the county auditor a certified statement of the amount of all taxes, interest, costs and accrued taxes charged to such land or lots, and paying such amount to the county treasurer, who shall give him a receipt therefor, and the county auditor, on filing such receipt, shall give to the person redeeming the land or lots a certificate of redemption, signed by him in his official capacity and sealed with the seal of the board of county commissioners, and shall charge such treasurer with the amount of such receipt, and shall omit such land or lots so redeemed from his list of county lands: *Provided*, That in case there shall be no redemption by the owner but redemption by the mortgagee, as prescribed in sections 2930 and 2931, execution or attachment creditors may redeem from the mortgagee by the payment to him of the full amount of the mortgage, together with interest thereon as prescribed in the mortgage, and the interest, costs, charges and accruing taxes, if any, paid by said mortgagee, *And provided further*, If there shall be more than one mortgagee, the mortgagors may redeem from each other in succession, or an attachment or execution creditor, by paying the sum paid by the last redemptioner, together with ten per cent. interest thereon, and all taxes and costs, if any, paid by him after the preceding redemption: \* \* \* *And provided further*, That execution and attachment creditors may redeem from each other by paying the sum paid by the preceding redemptioner with interest thereon at ten per cent. per annum.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 9, 1886. (See Tenth Bien. Sess. 1885-86, p. 90.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 672, § 48, *supra*.

<sup>3</sup> See *ibid.*, § 49.

**No. 677.—AN ACT TO AMEND SECTION 2688 OF THE CODE OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Special Tax to be Submitted to Vote.**—*Be it enacted, etc.* SECTION 1. That section 2688 of the Code of Washington Territory<sup>2</sup> be and the

<sup>1</sup> Approved Feb. 3, 1886. (Tenth Bien. Sess. 1885-86, p. 172.) In effect from date.

<sup>2</sup> See No. 671, § 5, *supra*.

same hereby is amended to read as follows: Sec. 2683. Whenever, in the opinion of the county commissioners of any county, the public good requires a court house, jail, or other county building, they shall estimate the cost thereof and submit the same to a vote of the qualified electors of their county, at a general or special election for that purpose, which election shall be held in the usual manner of general elections, after giving four weeks' notice by publication in the official newspaper of such county; and if a majority of the voters at such election favor such special tax, the commissioners shall assess and cause to be collected such tax, in the same manner as other county taxes are collected.

\* \* \* \* \*

**No. 678.—AN ACT TO AMEND SECTION 2984 OF CHAPTER 226 OF THE CODE OF WASHINGTON TERRITORY, RELATING TO CONVEYANCE OF REAL ESTATE SOLD FOR TAXES.<sup>1</sup>**

**§ 1. Tax Deed: When and to Whom Shall Issue—What Shall Recite—Notice to Owner, etc.—***Be it enacted, etc.* SECTION 1. That section 2984 of chapter 226,<sup>2</sup> relating to the conveyance of real estate sold for taxes, be and is hereby amended to read as follows: Sec. 2984. If within three years after the sale of any tract or lot of land for taxes the same has not been redeemed as provided by law, the lawful holder of a valid certificate of sale shall be entitled to a deed to the land described in said certificate, and upon the surrender of said certificate to the sheriff, and the payment of all subsequent taxes against said land, if there be any, and the redemption of said lands from all former sales to the county, not yet redeemed, if there be any, the sheriff must make to the purchaser, or his assignee, a deed of the property in fee simple, running in the name of the Territory of Washington, and reciting in the deed substantially the matters contained in the certificate and that no person has redeemed the property during the time allowed by law for its redemption: *Provided, however,* That no holder or owner of such certificate shall be entitled to a deed of the lands or lots so purchased until the following conditions have been complied with, to wit: Such holder or owner shall cause to be served a written or printed notice of such purchase on the person or persons in actual possession or occupancy of such tract or lot of land, and also the person in whose name the same was taxed or assessed, if upon diligent inquiry he can be found in the county, at least sixty days prior to the expiration of the three years aforesaid, in which notice he shall state when he purchased the land or lot, the description thereof, for what year taxed or specially assessed, and when the time of redemption will expire. If no one is in the actual possession or occupancy of such tract or lot of land, and the person in whose name the same was taxed or assessed, upon diligent inquiry cannot be found in the county, then the holder or owner of said certificate shall publish such notice in some newspaper printed and published in the county, and if no newspaper is printed and published in the county, then in the nearest newspaper that is published in this Territory to the county seat of the county in which such tract or lot of land is situated, which notice shall be inserted three times, the first not more than five months and the last not less than sixty days before the time of redemption shall expire. And the holder or owner of such certificate, or his agent, shall, before he shall be entitled to such deed, make an affidavit of his having complied with the conditions of this section, stating particularly the facts relied on as such compliance, which affidavit shall be delivered to the sheriff, and which shall by him be filed in the office of

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1886, p. 92.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 672, § 61, *supra*.

the county auditor and by him entered on the records of his office and carefully preserved among the files of his office, which record and affidavit shall be *prima facie* evidence that such notice has been given; the auditor's fee for recording such affidavit to be paid by the holder of such certificate, and the printer's fee for publishing such notice to be paid by the party redeeming before deed is made, not to exceed two dollars for each tract or lot of land. Any person swearing falsely in such affidavit shall be deemed guilty of perjury and punished accordingly.

\* \* \* \* \*

**No. 679.—AN ACT TO AMEND SECTIONS 2924, 2933, 2934 OF THE CODE OF WASHINGTON TERRITORY. <sup>1</sup>**

**§ 1. Certificate of Sale to County.**—*Be it enacted, etc.* SECTION 1. Section 2924 of the Code of Washington Territory <sup>2</sup> is amended by adding at the end of said section the following: And in case of sale of lands to the county, the sheriff shall execute and deliver to the county auditor a certificate, showing that the county, naming it, has purchased the lands named in the certificate, stating that the same was sold for taxes, the date of sale, amount paid therefor, and the name of the person in whose name the land was assessed for taxes. Such certificate shall be signed by the sheriff, and shall be *prima facie* evidence of the regularity of all prior proceedings.

**§ 2. Land Sold to County Not to Be Re-Offered.**—SEC. 2. Section 2933 <sup>3</sup> is amended by adding thereto the following proviso, to wit: *Provided*, That in all cases where lands are struck off and sold to the county and certificate issued, as in section 2924 provided, said lands shall be assessed and taxed to the person in whose name the same were assessed when sold, for each year, for the three years next subsequent to such sale, and shall not again be sold during said three years.

**§ 3. Tax Deed to Lands Sold to County: Consideration, etc.**—SEC. 3. Section 2934 <sup>4</sup> is amended by adding thereto the following proviso: "*Provided*, That in cases wherein lands have been sold to the county, the deed shall include, as consideration therefor, the amount for which the land was sold, together with the taxes, with the interest subsequent to the sale, and shall convey the lands mentioned to the county, and the board of commissioners of the county may afterward, at any time, sell at public sale the whole or any part of such lands, in giving notice of such sale in manner provided for sales by the sheriff of lands sold on execution, and in such sale the auditor shall, for and in the name of the county, and under the seal of the board of commissioners, execute to the purchaser a quitclaim deed for such lands, on payment of the purchase price, and for cash, and so execute to the county, the sheriff shall receive one dollar."

\* \* \* \* \*

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1886, p. 93.) In effect from date.

<sup>2</sup> See No. 672, § 44, *supra*.

<sup>3</sup> See *ibid.*, § 50.

<sup>4</sup> See *ibid.*, § 51.

**No. 680.—AN ACT TO AMEND SECTIONS 2829, 2830, 2831, 2848, 2861, 2869, 2872, 2873, 2877, 2880, 2881, 2894, 2901, 2902, 2915, 2916, 2941, 2945, 2947, 2948, 2958 AND 2962 OF THE CODE OF WASHINGTON TERRITORY, RELATING TO THE REVENUE. <sup>1</sup>**

**§ 1. What Taxable—What Exempt.**—SECTION 1. *Be it enacted, etc.* That section 2829 of the Code of Washington Territory, <sup>2</sup> be and the same

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1886, p. 47.) All conflicting acts and parts of acts are repealed. In effect from date. Secs. 2848, 2869, 2872, 2880, 2941, 2945, 2947, 2948 and 2962, referred to in the title, do not relate to subjects within the scope of this book, and are, therefore, omitted from this No.

<sup>2</sup> See No. 672, § 1, *supra*.



is amended so as to read as follows: Sec. 2829. All property, real and personal, within the Territory, except such as is herein expressly exempted from taxation, shall be and the same is hereby declared to be liable to taxation in the manner hereinafter provided. The following property is exempt from taxation, to wit: (1) All property of the United States, both real and personal. (2) All property, both real and personal, of the Territory of Washington, of the several counties, cities and towns and school districts. (3) All lands used exclusively for graveyards, as graves or grounds for burying the dead. \* \* \* (6) And whereas, "religion, morality and knowledge being necessary for good government and happiness of mankind," there is further exempted all buildings or institutions of learning, benevolent, charitable and scientific institutions, and hospitals for the sick and infirm, including the lands upon which such buildings are situated, not to exceed two acres if within a city or town, and not exceeding eighty acres if not within a city or town, and all buildings used exclusively for public worship and Sabbath schools, with parsonages, and the lands upon which they are situated, not exceeding one-half of an acre if in a city or town, and not exceeding five acres if not within a city or town: *Provided, however,* That all such church property, including parsonage property, when valued at more than five thousand dollars, shall pay a tax upon all above that value; and if any part of any building being a house of public worship shall be kept or used for any other purpose except for public worship, the part so used shall be assessed and taxed upon the cash valuation thereof: *Provided further,* That this exemption shall not apply to hospitals used exclusively for profit.

§ 2. **Definition of Terms.**—SEC. 2. Section 2830<sup>a</sup> is amended so as to read as follows: Sec. 2830. Whenever the terms mentioned in this section are employed in this act, they are employed in the sense hereafter affixed to them: (1) The word "property" includes moneys, credits, dues, stocks, bonds, checks, certificates of deposit, gold dust, gold and silver bullion, franchises, boats, vessels, and all and every other matter and thing, real and personal and mixed, and capable of private ownership. (2) The term "real estate" includes the ownership of, the legal claim to, the possession of, the right to the possession of, land; all mines, minerals and quarries in and under the land, and timber of natural growth on the land; all rights and privileges appertaining to the land, and all buildings and improvements upon the land. (3) The term "improvements" includes all buildings, structures, fixtures, fences, clearings and improvements made, erected upon or affixed to the land, and all fruits, nut bearing and ornamental trees and vines not of natural growth. (4) The term "personal property" includes everything which is the subject of ownership not included within the meaning of the term real estate. (5) The term "full cash value" means the amount at which the property would be appraised if taken in payment of a just debt due from a solvent debtor. (6) The word "him" or "his" shall be understood to mean "her" or "hers" when property belonging to a female is assessed. (7) The word "person" shall be held to mean and include a "corporation" when the property of a corporation is assessed. (8) The words "county auditor," "treasurer," "assessor," "sheriff," shall be understood to apply to each county respectively.

§ 3. **Time of Assessment.**—SEC. 3. Section 2831<sup>4</sup> is amended so as to read as follows: Sec. 2831. The assessor of each county shall, between the first Monday of April and the first Monday of July each year, ascertain by diligent inquiry the names of all persons liable to taxation in his county, and also all the taxable personal property and real estate therein, and make out an assessment roll of all taxable property and appraise the same in accordance with the provisions of this act, \* \* \*

\* See No. 672, § 2.

<sup>4</sup> See *ibid.*, § 3.

§ 4. **Debts May be Deducted.**—SEC. 5. Section 2861<sup>6</sup> is amended so as to read as follows: Sec. 2861. In making up the moneys and credits which any person is required to list, or having listed and assessed, he shall be entitled to deduct from the gross amount all debts in good faith owing by him, but no acknowledgment of indebtedness not founded on actual consideration, and no such acknowledgment made for the purpose of being so deducted, shall be considered a debt within the intent of this section, and so much only of any liability of such person as security for another shall be deducted as the person making the list believes he is equitably or legally bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor, and if there are other sureties able to contribute, then so much only as he in whose name the list is made will be bound to contribute; but no person will be entitled to any deduction on account of any obligations of any kind given to any insurance company for the premiums of insurance, nor on account of any unpaid subscription to any institution, society, corporation or company, and no person shall be entitled to any deduction on account of any indebtedness contracted for the purchase of United States bonds or other non-taxable property, and in making up the amount of debts due him, the party making the list shall include all debts due from persons non-residents as well as residents of the Territory.

\* \* \* \* \*

§ 5. **Board of Equalization.**—SEC. 8. Section 2873<sup>6</sup> is amended so as to read as follows: Sec. 2873. The board of county commissioners of each county shall constitute a board of equalization of taxes for its county, and shall annually hold a session for the equalization of assessments and the correction of the assessment roll, which term shall commence on the first Monday of the regular August term each year, and continue until such business is completed: *Provided*, That said term shall not exceed two weeks in one county for this purpose.

§ 6. **Valuation of Property Taxed.**—SEC. 9. Section 2877<sup>7</sup> is amended by striking from line four, on page 498, all the words after "April," and all of the fifth line to the word "and."

\* \* \* \* \*

§ 7. **Time of Levy.**—SEC. 11. Section 2881<sup>8</sup> is amended by striking out the word "May," in the second line, and inserting the word "August."

§ 8. **Delivery of Roll.**—SEC. 12. Section 2887<sup>9</sup> is amended by striking from the first line the word "October," and inserting "November."

\* \* \* \* \*

§ 9. **When Taxes Delinquent.**—SEC. 14. Section 2901<sup>10</sup> is amended by striking from line one the words "thirty-first day of December," and inserting "first day of March."

§ 10. **Duplicate Roll—Correction of Errors—Who Shall Collect Taxes.**—SEC. 15. Section 2902<sup>11</sup> is amended so as to read as follows: Sec. 2902. On the first Tuesday of March in each year, the treasurer of each county must attend at the office of the county auditor, with the duplicate assessment roll, and every item marked paid, or which has in fact been paid, in such duplicate assessment roll, must be marked paid in the original assessment roll, with the date of payment of each, and every item marked "error" or double assessment in the duplicate must be marked the same in the original. The sheriff shall be *ex-officio* tax collector of the delinquent taxes of his county, from and after the first day of March in each year, except as hereinafter provided, and it shall be the duty of the county auditor, after he has made his comparison with

<sup>6</sup> See No. 672, § 19.

<sup>6</sup> See *ibid.*, § 20.

<sup>7</sup> See *ibid.*, § 21.

<sup>8</sup> See *ibid.*, § 24.

<sup>9</sup> See *ibid.*, § 25. No reference to this section is made in the title.

<sup>10</sup> See *ibid.*, § 32.

<sup>11</sup> See *ibid.*, § 33.

the treasurer as in this section provided, to make out a schedule of unpaid taxes in the form of a triplicate assessment roll, with the ten per cent. penalty added to the amount of such unpaid taxes, and shall deliver the same to the sheriff, with his warrant attached thereto, in the name of the United States, under his hand and seal of the board of county commissioners, to the sheriff of the county, commanding him to collect the taxes as charged in such schedule as in this act provided, and the auditor shall charge the sheriff with such taxes in the schedule stated in a delinquent tax account book, to be kept for that purpose, and shall credit the treasurer on his account with the same amount.

\* \* \* \* \*

§ 11. **Return of Sheriff.**—SEC. 17. Section 2915<sup>12</sup> is amended by striking out the word "April" from line one and inserting the word "July."

§ 12. **Time of Sale.**—SEC. 18. Section 2916<sup>13</sup> is amended by striking from line one the word "May" and insert "August."

\* \* \* \* \*

§ 13. **Date of Assessment.**—SEC. 23. Section 2958<sup>14</sup> is amended so as to read as follows: Sec. 2958. Every person must be assessed for all property owned by him on the first Monday of April each year, at 12 o'clock M.

\* \* \* \* \*

<sup>12</sup> See No. 672, § 37.

<sup>13</sup> See *ibid.*, § 38.

<sup>14</sup> See *ibid.*, § 60.

**No. 681.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE LEVY AND COLLECTION OF TAXES UPON THE PROPERTY OF RAILROAD COMPANIES IN THIS TERRITORY." <sup>1</sup>**

§ 1. **Repealing Clause.**—*Be it enacted, etc.* SECTION 1. That an act entitled "An Act to provide for the levy and collection of taxes upon the property of railroad companies in this Territory," approved November twenty-eighth, eighteen hundred and eighty-three,<sup>2</sup> be and the same is hereby repealed.

§ 2. **Saving Clause.**—SEC. 2. This act shall take effect and be in force from and after the first day of March, eighteen hundred and eighty-eight: *Provided, however,* That this act shall in no wise affect the levy and collection of taxes upon the property of said railroad companies in this Territory for the year eighteen hundred and eighty-seven.

<sup>1</sup> Approved Jan. 18, 1888. (See Eleventh Blen. Sess. 1887-88, p. 191.)

<sup>2</sup> See No. 673, *supra*.

**No. 681½.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND SECTIONS 2829, 2830, 2831, 2848, 2861, 2869, 2872, 2873, 2877, 2880, 2881, 2894, 2901, 2902, 2915, 2916, 2941, 2945, 2947, 2948, 2958, 2962, OF THE CODE OF WASHINGTON TERRITORY, RELATING TO THE REVENUE," APPROVED FEBRUARY 4, 1886. <sup>1</sup>**

§ 1. **Duplicate Roll—Who Shall Collect Taxes.**—*Be it enacted, etc.* SECTION 1. That section 2902 of the Code of Washington Territory, relating to the revenue, as amended and approved February 4, 1886,<sup>2</sup> be so amended as to read as follows: Sec. 2902. On the first Tuesday of March in each year, the treasurer of each county must attend at the office of the county auditor with the duplicate assessment roll, and every item marked

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Blen. Sess. 1887-88, p. 192.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 672, § 33, *supra*.

paid, which has in fact been paid, on such duplicate assessment roll, must be marked paid on the original assessment roll, with the date of payment of each and every item marked "error;" each double assessment in the duplicate must be marked the same in the original. The sheriff shall be *ex-officio* tax collector of the delinquent tax of his county from and after the first day of March in each and every year, and it shall be the duty of the county auditor, after he has made his comparison with the treasurer as in this section provided, to make out a schedule of unpaid taxes, in the form of a triplicate assessment roll, with a ten per cent. penalty added to the amount of such unpaid taxes, and shall deliver the same to the sheriff, with his warrant attached thereto, in the name of the United States, under his hand and the seal of the board of county commissioners, commanding such sheriff to collect the taxes as charged in such schedule, as in this act provided: \* \* \* *Provided further*, That after the November settlement said assessment roll shall be returned to said sheriff, to which shall be added the penalty and interest in the manner hereinbefore prescribed in this section, and it shall be the duty of said sheriff to immediately proceed to collect such delinquent taxes, together with the penalty and interest. \* \* \*

**No. 682.—AN ACT TO PROVIDE FOR THE ASSESSMENT, LEVY AND COLLECTION OF TAXES UPON THE PROPERTY OF RAILROAD COMPANIES IN THIS TERRITORY.<sup>1</sup>**

**§ 1. Railroad Property to be Assessed as Other.**—SECTION 1. *Be it enacted, etc.*, That the taxes upon the property of railroad companies in this Territory shall hereafter be assessed, levied and collected as the taxes upon the property of individuals in this Territory are assessed, levied and collected, and that all the provisions of law now in force, or that may hereafter be put into operation in this Territory, providing for the assessing, levying and collecting of taxes upon the property of individuals shall, unless otherwise provided, apply and be applicable to the assessing, levying and collecting of taxes upon the property of railroad companies.

**§ 2. Repealing Clause.**—SEC. 2. That all the acts or parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

**§ 3. Date in Effect.**—SEC. 3. This act to take effect and be in force from and after the first day of March, A. D. 1888.

<sup>1</sup> Approved Jan. 31, 1888. (See Eleventh Bien. Sess. 1887-88, p. 220.)

**CHAPTER II.—REVENUE FOR SPECIAL PURPOSES.**

**1. BONDING OF COUNTIES AND CITIES.**

**No. 683.—AN ACT TO AUTHORIZE COUNTIES AND CITIES TO REFUND OUTSTANDING INDEBTEDNESS.<sup>1</sup>**

**§ 1. Refunding.**—*Be it enacted, etc.* SECTION 1. All bonds heretofore issued by any county or city may be refunded, in the discretion of the county commissioners of the county or common council of the city, in the manner hereinafter provided.

\* \* \* \* \*

<sup>1</sup> Approved Feb. 1, 1888. (See Eleventh Bien. Sess. 1887-88, p. 12.) In effect from date.

§ 2. **Levy and Amount of Tax.**—SEC. 8. There shall be levied each year a tax upon the taxable property of such county, or city, as the case may be, sufficient to pay the interest on said bonds as the same accrues, and before five years prior to the maturity thereof, an annual sinking fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and collectible as other taxes.

\* \* \* \* \*

**No. 684.—AN ACT AUTHORIZING AND EMPOWERING THE ORGANIZED COUNTIES OF WASHINGTON TERRITORY TO ISSUE AND DISPOSE OF BONDS TO PROVIDE FUNDS TO PAY OUTSTANDING INDEBTEDNESS, AND TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST THEREOF.**<sup>1</sup>

§ 1. **When May Issue.**—*Be it enacted, etc.* SECTION 1. That each and every organized county of this Territory is hereby authorized and empowered, by and through its board of county commissioners, when in the judgment of said board it is deemed to be to the best interests of the county, to issue its negotiable bonds in the name of the county, for the sole purpose of funding the outstanding indebtedness which existed against said county on the first day of January, 1888; \* \* \*

\* \* \* \* \*

§ 2. **Levy and Amount of Tax.**—SEC. 8. Ten years before the said bonds shall become due and payable, the county commissioners of the county issuing them are hereby authorized and required annually to levy a tax sufficient to liquidate the said bonds by [at] maturity; such tax to be collected and kept as a separate fund to liquidate the said bonds \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 10.) All conflicting acts or parts of acts are repealed. In effect from date.

## 2. DEVELOPMENT OF RESOURCES.

**No. 685.—AN ACT FOR DEVELOPING THE LATENT RESOURCES OF THE EARTH IN WASHINGTON TERRITORY.**<sup>1</sup>

§ 1. **Application for Tax to be Submitted to Vote: Notice, etc.**—*Be it enacted, etc.* SECTION 1. That whenever twenty taxpayers of any one county, who shall reach [each] pay taxes on a sum not less than fifteen hundred dollars, in said county, shall apply by petition in writing to the commissioners of their county for an appropriation of any specified sum of money for the purpose of boring or drilling into the earth for valuable minerals, such as coal, oil, gas, salt, or any other valuable subterranean production that is supposed to exist in quantities sufficient to justify boring for, then the county commissioners of the county wherein the above named petition has been filed shall make an estimate of the probable depth the well will have to be bored, and the probable cost of boring the same, and shall put up notices, as prescribed by law for general elections, calling on all legal voters in the said county to vote for or against the said tax.

\* \* \* \* \*

§ 2. **Manner of Collection.**—SEC. 10. This tax shall be collected the same as the school tax, and be payable on the order of a majority of the board of county commissioners.

\* \* \* \* \*

§ 3. **Date in Effect.**—SEC. 18. This act to take effect and be in force sixty days after its passage and approval by the governor.

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 126.)



### 3. DITCHES, DRAINS AND WATER COURSES.

#### **No. 685½.—AN ACT TO REGULATE THE DRAINING OF MARSH AND SWAMP LANDS.<sup>1</sup>**

§ 1. **Manner of—Damages For.**—SECTION 1. *Be it enacted, etc.,* That any person owning swamp or marsh lands, and desiring to drain the same through any other person or persons' lands, may make application to the board of county commissioners of his county at any regular term of their court; and it shall be the duty of such commissioners to appoint three disinterested persons, who shall go to the land designated by the person making such application, and carefully survey the lands and assess damages, if there should be any, which damages shall be paid to the person or persons so damaged when the work of ditching commences.

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<sup>1</sup>Passed Jan. 29, 1858. (See Fifth Bien. Sess. 1857-58, p. 80.)

#### **No. 686.—AN ACT TO AUTHORIZE THE CONSTRUCTION OF DITCHES, DRAINS OR WATER COURSES.<sup>1</sup>**

§ 1. **Power of Commissioners.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of any county in this Territory shall have power at any regular meeting to cause to be established, located and constructed as hereinafter provided, any ditch, drain or water course within such county.

§ 2. **Application for: Who May Make—How Made.**—SEC. 2. Any person or persons owning or occupying swamp or overflowed lands in this Territory, desiring to construct a ditch or ditches in order to improve the said lands, shall notify all persons through whose lands the said ditch or ditches is to be constructed, or which will be affected thereby, at least twenty days before any regular meeting of the board of county commissioners of the county or counties in which the same is to be constructed, at which the said application is to be made, by posting written or printed notices in three public places in the vicinity of such proposed ditch or ditches: *Provided,* That if any of the owners of the lands to be affected by the said ditch or ditches reside out of the county where the same is or are to be located, one copy of said notice shall be posted in a conspicuous place at the office of the auditor or auditors of the county or counties in which the proposed work is to be done, and one copy of the said notice, with the affidavit of the applicant or applicants, that the same has been posted as above provided, shall be filed with the said county auditor, which he shall submit for the inspection of the county commissioners at the meeting at which said application shall be made, and the auditor shall thereupon enclose a copy thereof, and direct and mail the same to the postoffice of said owner, if the same is known to him.

§ 3. **Appointment of Viewers.**—SEC. 3. It shall be the duty of the county commissioners, on receipt of the application of the person or persons desiring the construction of such ditch or ditches, with the notice and affidavit as provided in section two, to appoint three disinterested persons, one of whom shall be competent to do surveying or engineering, as viewers and appraisers.

§ 4. **How Located, etc.**—SEC. 4. When the said viewers shall have been appointed and taken an oath well and truly to locate said ditch or ditches, according to the true intent of this act, they shall proceed to lo-

<sup>1</sup>Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 92.) In effect from date.

cate said ditch or ditches in the best possible manner for the interests of the owners of the lands affected by the location of the same, giving to each of said ditches all the fall the face of the lands will permit, and marking each rod to be dug by stakes upon which must be marked the width and depth of said ditch or ditches.

**§ 5. Duty of Viewers—Payment of Damages.**—SEC. 5. The viewers shall estimate the cost of clearing the way and of digging the said ditch or ditches per rod, making separate estimates for each rod where the said ditch or ditches are to be dug wider or deeper, or the obstructions are greater and harder to overcome in the said digging, and shall apportion to each person benefited the amount of ditch which he shall dig, in proportion to the benefit which, in their judgment, he will receive from the construction of the said ditch or ditches. And they shall also estimate the amount of damages, if in their opinion the construction of the said ditch or ditches will damage any owner of land more than the amount of benefits accruing to him by reason of the construction of the same, which should be paid to the said owner; and the said applicant or applicants shall pay the said estimated damages, taking a receipt therefor, or make satisfactory arrangements with the owner or agent of the said premises, which satisfaction shall be in writing, and the receipt of said written satisfaction shall be filed with the county auditor, prior to any work being done on the said ditch.

**§ 6. Report of Viewers.**—SEC. 6. The viewers shall make a report, specifying the starting point, route and terminus of the said ditch, drain, or watercourse, its size, estimated cost, and a description of the lands through which it is to be dug, and also the amount assessed as damages, if any, which they shall file with the auditor of the county in which the greater portion of the said ditch has been located.

**§ 7. How Damages, etc., Recovered.**—SEC. 7. All parties, after receiving notice of the amount of ditch assessed and set to them, shall proceed to clear the way and dig said ditch, and have their said proportion of the same completed within one year from the date of said notice: *Provided*, That if any person having a portion of said ditch assessed to him shall fail to clear the way and dig such portion of ditch by the time aforesaid, the applicant or applicants may proceed to clear the way and dig said ditch, or cause the same to be done, according to the plans and specifications of the said viewers, and the sum assessed to the owner may be recovered by an action before any court having jurisdiction, and shall be a just claim against and a lien upon the lands through which the said ditch or ditches are located. And parties owning lands not adjacent to nor affected by the said ditch, drain or water course, and wishing to drain their lands by cutting a ditch or ditches to intersect the same, shall have the privilege of such intersection by first obtaining the consent, in writing, of a majority of the parties benefited by the said ditch.

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**§ 8. Appeal From Viewers' Decision.**—SEC. 11. Any person aggrieved by the decision of the viewers may appeal to any justice of the peace in the county where the applicants live, by filing a notice of said appeal with the auditor with whom the said viewers' report was filed, within ten days after the filing of said report, which notice shall be to the applicants and shall contain a copy of the complaint, which the applicant [appellants] shall file with the justice of the peace, and upon which he shall base his cause of action, which must recite that portion of the proceedings of the viewers appealed from.

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**§ 9. Scope of Act.**—SEC. 14. The provisions of this act shall not apply to the counties of Walla Walla, Yakima, Whitman and Stevens.

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**No. 687.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AUTHORIZE THE CONSTRUCTION OF DITCHES, DRAINS OR WATER COURSES," APPROVED NOVEMBER 12, 1875.<sup>1</sup>

§ 1. **Plat to be Filed.**—*Be it enacted, etc.* SECTION 1. That section second of said act<sup>2</sup> be amended by adding to said section the following: "And it shall be necessary for the board of county commissioners in all other cases to have filed and recorded in the county auditor's office, in a book kept for that purpose, in the county where such ditch, drain or water course is constructed, a plat of the survey of said ditch, drain or water course, together with the notice and affidavit of the person or persons making the application to construct said ditch, drain or water course."

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§ 2. **Expense: How Assessed and Recovered.**—SEC. 8. Section seven of said act<sup>3</sup> shall be amended to read as follows: "Sec. 7. All parties, after receiving notice of the amount of ditch assessed and set to them, shall proceed to clear the way and dig said ditch and have their said proportion of the same completed within the time determined by the viewers when such view and survey was made, not exceeding two years: *Provided*, That if any person having a portion of said ditch assessed to him shall fail to clear the way and dig such portions of ditch by the time aforesaid, the applicant or applicants may proceed to clear the way and dig the ditch, or cause the same to be done, according to the plans and specifications of said viewers, and the sum assessed to the owners, with legal interest thereon, may be recovered in an action in any court having jurisdiction, and shall be a just claim against and a lien upon the lands through which said ditch or ditches are located, which lien shall be prior to all other liens and incumbrances subsequent to the assessment. And parties owning lands not adjacent to nor affected by said ditch, drain or water course, and wishing to drain their lands by cutting a ditch or ditches to intersect the same, shall have the privilege of such intersection by first obtaining the consent, in writing, of a majority of the parties benefited by said ditch.

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<sup>1</sup> Approved Nov. 6, 1877. (See Sixth Blen. Sess. 1877, p. 314.)

<sup>2</sup> See No. 686, § 2, *supra*.

<sup>3</sup> See *ibid.*, § 7.

**No. 687½.**—AN ACT RELATING TO THE IMPROVEMENT OF TIDE LAND.<sup>1</sup>

§ 1. **How Improved and Reclaimed.**—SECTION 1. *Be it enacted, etc.*, That persons owning or desiring to improve contiguous tracts of tide, marsh or swampy lands exposed to the overflow of the tide and capable of being laid [made] dry, may separate their respective tracts by a dike or ditch, which shall make and designate their common boundary. In all such cases said dike or ditch shall be constructed at the equal cost and expense of the respective parties, and either party failing to pay his contributive share of such expense shall be liable to the party constructing the dike or ditch for such contributive share, or so much thereof as may remain due and unpaid, to be recovered in a civil action in a court of competent jurisdiction, and the party constructing such dike shall also be entitled to a lien upon the tract of the party failing to pay his contributive share for the construction of said dike, or so much thereof as shall be due, which lien shall be secured and enforced as liens of material men and mechanics are now by law enforced.

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 258.) In effect from date.

**§ 2. Boundary: How Designated.**—SEC. 2. Any person or persons who may hereafter take a tract of tide land or marsh, and shall desire to adopt as his boundary line any dike or ditch heretofore constructed upon, and entirely within, the boundary line of a neighboring contiguous tract, he may join on to said tract and adopt said dike as his boundary by paying to the owner of the tract upon which said dike is constructed one-half of the cost and expense of the construction thereof; and any person as [so] adopting the dike or ditch of another without contributing his half share of the cost or expense thereof shall be liable for his said half share, which may be recovered in a civil action in any court of competent jurisdiction, or the owner of the dike or ditch as [so] used may secure a lien upon the tract of land bounded by said dike for the amount due for the use of said dike in accordance with the provisions of the law securing a lien to material men and mechanics: *Provided, always,* That when such dike has become the common boundary of two adjacent tracts, it shall be and remain the common boundary, and the persons owning the said tracts shall be mutually liable for the expense of keeping it in repair, share and share alike.

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**No. 688.—AN ACT TO PROVIDE FOR THE CONSTRUCTION OF DITCHES,  
DRAINS OR WATER COURSES.<sup>1</sup>**

**§ 1. Power of Commissioners.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of any county in the Territory shall have power to cause to be established, located and constructed, for agricultural or sanitary purposes, as hereinafter provided, any ditch, drain or water-course within said county.

**§ 2. Application for: Who May Make—How Made.**—SEC. 2. Any person owning, possessing or occupying any swamp, wet, marsh or overflowed lands in the Territory, who shall desire to drain the same, when he shall deem it necessary in order thereto that a ditch or drain should be opened through lands belonging to other persons, in case the owners of said lands shall refuse to permit the opening of said ditch or drain through the same, or if the parties cannot agree upon the terms thereof, he shall make application in writing to the board of county commissioners of the county in which such swamp, wet, marsh or overflowed lands shall be situated, to inquire and determine whether such swamp, wet, marsh or overflowed lands are a source of disease, and whether the public health would be promoted by draining the same, or whether such ditch or drain is necessary for the proper cultivation of the same, and whether the permanent assessed value of the same would be increased by such drain: said application shall be filed with the county auditor, together with a good and sufficient bond, conditioned to pay all costs and expenses of location and appraisal, should the county commissioners grant said application, at least thirty days before a regular meeting of the board of county commissioners.

**§ 3. Substance of Application: Notice, etc.**—SEC. 3. That said application shall contain a description of the lands to be drained, the premises through which it will be necessary for the said ditches or drain to be constructed, and the owner or owners thereof, if known, and in a clear, concise manner, the facts showing the necessity of said ditch or drain, and shall be verified by oath of the applicant. Twenty days' notice of said application shall be given to the owners of the lands affected by said ditch or drain. Upon the filing of such application and bond, the county auditor shall prepare the necessary number of notices for the applicant, who shall cause one of such notices to be given to the owner of each tract

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 77.) In effect from date.

sought to be affected by the proceeding; the notice shall state, substantially, the prayer of the application, and the time and place, when and where the same will be heard before the county commissioners; and if any person owning lands sought to be affected by the proceeding, be a non-resident of the county, the same notice shall be sent to him by registered mail, if such residence be known by the county auditor, otherwise it shall be published for four consecutive<sup>2</sup> weeks in some newspaper published or of general circulation in the county.

**§ 4. Duty of Commissioners Before Ordering Construction.—SEC. 4.** If on the second day of the regular meeting of the board of county commissioners next succeeding the filing of the application, as provided in section two of this act, the county commissioners find that due notice of said application has been given, and the bond filed, and all requisite preliminary steps taken, they shall proceed at once to hear and determine said application, excluding from such hearing all matters and evidence except that pertaining to the necessity of said ditch or drain; and if it be found that said ditch or drain, when constructed, will promote the public health, or that it is necessary, for the proper cultivation of the wet, swamp or overflowed lands described in said application, that the same should be drained, or that the permanent assessed valuation of said lands would be increased by such ditch or drain, or that from any other cause the construction of said ditch or drain would be to the public benefit or welfare, they shall make a finding to that effect in writing, which shall be signed by the board and certified to by the county auditor, be filed for record in the county auditor's office; they shall also, immediately thereafter, appoint three disinterested persons, freeholders of the county, one of whom shall be a practical surveyor or civil engineer, as viewers and appraisers of said ditch or drain.

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**§ 5. How Located, etc.—SEC. 6.** When the viewers or appraisers shall have been appointed, as provided in section 4, and taken an oath well and truly to locate said ditch or drain without prejudice or partiality, according to the true intent and meaning of this act, they shall proceed to locate said ditch or drain in the best possible manner for the interest of the owners of the lands affected by the location of the same, giving to the ditch or drain all the fall the face of the land will permit, and designating each rod to be dug upon, which shall mark the width and depth of said ditch or drain.

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**§ 6. Report of Viewers.—SEC. 8.** The viewers shall make a report specifying the starting point, route and terminus of said ditch or drain, its size, flare, fall and estimated cost, and a description of the land through which it is to be dug; also a plat showing the survey and profile view of the same; they shall also report the amount or amounts assessed as damages, if any, the estimated quantity of lands benefited, the appraised value, and owners of such lands; which reports and plats, duly verified by the oath of the reviewers, to the effect that the same is a just and impartial estimate and report, shall be filed with the county auditor at least ten days after the regular meeting of the county commissioners next succeeding the appointment of such viewers, and the viewers shall also determine from the nature of the survey and view the time, not exceeding two years from the date of filing their report, in which said ditch or drain shall be completed.

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**§ 7. Expenses: How Assessed and Recovered.—SEC. 11.** When said ditch or drain shall have been completed by the said applicant, he shall file notice thereof, together with a verified bill of expenditures on account of said ditch or drain, including therein the amount of damages paid, and all

<sup>2</sup> Consecutive.



fees and expenses incident to the location and construction of said ditch or drain, with the county auditor, who shall thereupon transmit a copy of the plan and specifications of said ditch or drain to the county surveyors, who shall examine said ditch or drain and at the next meeting of the county commissioners report whether the same is constructed according to the plan and specifications, and if it be found that said ditch or drain is constructed as near as practicable in accordance with the plans and specifications and location thereof, the county commissioners shall, at their next regular meeting, if the bill of expenditures is not exorbitant nor greater than the estimated costs submitted by the viewers, taking the valuations submitted by the viewers the basis of the several tracts, assess the costs of location and construction of said ditch or drain upon the several tracts benefited thereby, in the proportion which the value of each tract benefited bears to the value of all the lands benefited by said ditch or drain; they shall also make or cause to be made a list of said lands so benefited, and a schedule of the assessments made against said lands, in duplicate, and shall append thereto their affidavits that the same is, to the best of their judgment and belief, a true and just assessment, and cause one copy thereof to be delivered to the applicant and the other to be recorded in the county auditor's office; and it shall be lawful for the said applicant to demand and receive from the owner of the lands benefited by said ditch or drain, or any one of them, the amounts assessed against his said land on account of the construction of said ditch or drain; and if the same shall not be paid within thirty days after demand, the applicant may make a verified statement of the assessment against each tract assessed and file the same with the county auditor, who shall record the same in the book of liens, indexing the owner as lienor, and the applicant as claimant, for which he shall be entitled to charge the regular fee, which shall be paid by the applicant; and the assessment named in such verified statement shall be a lien upon said tract, which lien shall be prior to all other liens and incumbrances subsequent to the assessment, and may be foreclosed by the said applicant, or his assignee, at any time within five years from the date of said assessment, in any court of competent jurisdiction.

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§ 8. "Ditch," "Drain," Defined.—SEC. 17. The words "ditch," or "drain," when used in this act, shall be held to include a ditch, drain or water course, and application for any such improvement shall be held to include any side, lateral, spur or branch ditch, drain or water course necessary to be constructed to secure the object of the improvement, whether the same is mentioned therein or not; and the word "applicant," when mentioned herein, shall be held to mean "applicant" or "applicants."

§ 9. Errors or Informalities Shall Not Invalidate Assessment.—SEC. 18. The collection of taxes or assessments, levied or assessed, to pay for the location and construction of any ditch laid out and constructed under and by authority of this act, shall not be enjoined or declared void in consequence of any error committed by the viewers, county auditor or county commissioners in the location and establishment thereof, nor by reason of an error or technical informality appearing in the petition on record of the proceedings.

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**No. 689.—AN ACT TO PROVIDE FOR THE CONSTRUCTION AND MAINTENANCE OF DIKES AND DAMS IN CERTAIN CASES.<sup>1</sup>**

§ 1. **Diking Districts May be Established.**—*Be it enacted, etc.* SECTION 1. That boards of county commissioners in this Territory may estab-

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Blen. Sess. 1887-88, p. 90.) All conflicting acts and parts of acts repealed. In effect from date.

lish diking districts and provide for the construction and maintenance of dikes and dams in certain cases as hereinafter provided.

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§ 2. **Boundaries of Districts—Estimate of Costs—How Tax Collected.**—SEC. 4. \* \* \* They shall also define the boundaries of the district of land to be protected thereby, and also make an accurate list of the land owners of the district, and their lands by legal subdivision within the same. They shall further estimate the cost of the proposed dikes and dams, and such estimated costs, when approved by the board of commissioners, shall at the August term be duly apportioned and added to the regular taxes of the land owners of such district on the assessment roll for the current year, and such tax for diking purposes shall have the same legal effect and be collected in the same manner as other taxes on the county assessment roll, and in default of payment shall be a lien upon the land as in other cases.

§ 3. **Maintenance of Dikes, etc.**—SEC. 5. As soon as these proceedings are had and the tax levied, the county commissioners shall appoint a supervisor of dikes and dams for such district, and thereafter such supervisor shall be elected and hold office the same as road supervisors, and shall receive the same compensation for his services. When the tax is collected it shall be placed to the credit of such diking district, subject to the order of the supervisor of dikes and dams, and is to be expended in the construction or maintenance of such dikes and dams, the same as the road fund by road supervisors. For the proper maintenance of such dikes and dams thereafter the supervisor shall annually prepare and file with the county auditor, on or before the May term of the county commissioners, a detail statement of his operations, and also an estimate of the cost of maintaining in proper repair such dikes and dams for the ensuing year, which estimate, when approved by the board, shall at the August term be taxed on the assessment roll against the land owners of said diking district the same as in the first instance, and each land owner shall thereafter bear and pay his fair and equitable proportion of such expenses according to the taxable valuation of his property within such district: *Provided*, Such taxes shall be levied on the land per acre, exclusive of buildings and improvements.

§ 4. **How Damages Assessed and Collected.**—SEC. 6. If in locating and establishing the dikes and dams provided for in this act, the owner or owners of lands through which they pass should feel aggrieved on the score of right-of-way or other cause, he shall have proper cause for damages. In such cases, claims for damages shall be filed and the amount thereof determined, in accordance with the provisions of the general road law, and the amount thereof so determined and allowed by the board of county commissioners shall be taxed against the lands of said district in due proportion as the tax for construction, and, when collected, shall be reserved and paid under direction of the board to the claimant or claimants.

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#### 4. RELIEF OF INDIGENT SOLDIERS.

**No. 690.**—AN ACT TO PROVIDE FOR THE RELIEF OF INDIGENT UNION AND MEXICAN WAR SOLDIERS, SAILORS AND MARINES, AND THE FAMILIES OF THOSE DECEASED OR INDIGENT, AND TO DEFRAY FUNERAL EXPENSES.<sup>1</sup>

§ 1. *Be it enacted, etc.*

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§ 2. **Levy and Amount of Tax.**—SEC. 7. That the board of county commissioners of the several counties of this Territory are hereby au-

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 208.) In effect from date.

thorized to levy, in addition to the taxes now levied by law, a tax not exceeding three-tenths of one mill upon the taxable property of their respective counties, to be levied and collected as now provided by law for the assessment and collection of taxes, for the purpose of creating a fund for the relief of honorably discharged indigent Union soldiers, sailors and marines, and the indigent wives, widows and minor children of such indigent or deceased Union soldiers, sailors and marines, to be disbursed for such relief by such board of county commissioners.

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## 5. SUPRORT OF COMMON SCHOOLS.

### No. 691.—AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>

#### CHAPTER I.

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **What is Taxable.**—SEC. 2. For the purpose of establishing and maintaining common schools, it shall be the duty of the county commissioners of each county to lay an annual tax of two mills on the dollar, on all taxable property of the county as shown by the assessment rolls made by the county assessors for the same year, and to include the same in their warrant to the collector, and the said collector shall proceed to collect the said tax in the same manner as the other county tax is collected;

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#### CHAPTER II.

§ 3. **Superintendent.**—SECTION 1. There shall be elected by the legal voters of the respective counties, at the annual elections, a county superintendent of common schools for each county, \* \* \*

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§ 4. **Formation of Districts.**—SEC. 3. It shall be the duty of the superintendent to divide such portion of his county as shall be inhabited into convenient school districts, to define the boundaries and numbers, and to prepare and keep in his office a map of the districts of the county upon which the lines and boundaries of each district shall be clearly defined; he shall lay off new districts or divide old ones when the public good shall require it.

§ 5. **Notice of Formation of Districts.**—SEC. 4. Whenever any school district shall be formed by the superintendent, it shall be his duty to prepare a notice in writing of the establishment of such district, describing its boundaries, and to deliver the same to some taxable inhabitant of such district who shall have asked for the formation of the same. It shall be the duty of said inhabitant, within two weeks after the receipt of such notice, to notify the other inhabitants of the district of the time and place of the first district meeting, which time and place he shall fix by written notices, and which shall be posted up in three public places in the district at least ten days previous to the time of meeting. In case the inhabitants fail to attend in sufficient numbers to do business as hereafter directed, notice may be renewed at such times as may be thought proper.

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#### CHAPTER III.

§ 6. **District Meetings—Quorum.**—SECTION 1. A school meeting may be called at any time for the purpose of organizing a new district, as pro-

<sup>1</sup>Passed April 12, 1854. (See First Reg. Sess. 1854, p. 319.)

vided in section four, under the title of county superintendent.\* No number less than five legal voters shall constitute a quorum to do business in any district meeting.

§ 7. **Power of Special Meeting.**—SEC. 2. Such school meeting shall have power to do all necessary business the same as the regular annual school meeting would have.

§ 8. **Election of Directors.**—SEC. 3. Such meeting, when assembled, shall organize by the appointment of a chairman and secretary. It shall then proceed by ballot to elect three directors. \* \* \*

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§ 9. **Duty of Directors.**—SEC. 6. It shall be the duty of the directors of every school district—(1) To call special meetings of the district whenever they shall deem it necessary. (2) To make out a tax list of every district tax, containing the names of the taxable inhabitants in the district, and the amount of tax payable by each inhabitant set opposite his name. (3) To annex to such tax list a warrant directed to the clerk of the district for the collection of the sums in such list mentioned, including five per cent. for the fees of said clerk. (4) To purchase or lease a site for the district school house, as designated by a meeting of the district, \* \* \*

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§ 10. **Election of District Clerk.**—SEC. 9. The first annual school meeting shall also elect a district clerk, who shall continue in office for the term of three years. \* \* \*

§ 11. **Duty of Clerk.**—SEC. 10. It shall be the duty of the clerk of each district— \* \* \* (2) To give notice of annual or special meetings. \* \* \* (4) To collect all district taxes which he shall be required by the warrant from the directors to collect within the time limited in each warrant for its return; and he shall have the same authority to enforce the collection of such tax as the county collector has for collecting the county tax, \* \* \*

\* \* \*  
§ 12. **Annual Meetings: Notice of.**—SEC. 13. There shall be an annual school meeting held in each district upon the first Friday in November, and notices of all annual or special meetings shall be in writing, signed by the directors or the clerk of the district, and shall state the object for which the meeting is called, and shall be posted up in three public places in the district at least six days previous to the holding of such meeting.

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§ 13. **Power of Taxation.**—SEC. 16. A school meeting, legally called, shall have power, by the vote of a majority present, to levy a tax on all the taxable property in the district, as the meeting shall deem sufficient to purchase or lease a suitable site for a school house, and to build, hire or purchase a school house and keep it in repair, and to furnish the same with necessary fuel and appendages, and to levy an additional tax on the district for the purchase or increase of a district library, globes, maps, and such apparatus as the interest and well being of the school shall require. \* \* \*

§ 14. **Notice of Meeting.**—SEC. 17. In all cases when a tax is to be levied, it shall be stated in the notices given of the meeting for what purpose or purposes a tax is to be levied.

§ 15. **District is Corporate Body.**—SEC. 18. When a district is organized, it shall be to all intents and purposes a body corporate, capable of suing and being sued, and fully competent to transact all business appertaining to schools or school houses in their own district; and it shall be

\* See § 5 of this No.

the duty of the directors to prosecute or defend any demands for or against their district, and notice shall be served upon one of the directors of any suit brought against a district.

§ 16. **Manner of Assessment.**—SEC. 19. All district taxes shall be assessed by the directors according to the valuation of property made for the assessment of county taxes, and shall be collected by the clerk of the district, with an addition of five per cent. on the same, which the clerk shall receive for his services. Any person aggrieved by an excessive assessment of the directors of any school district may have the same reduced by his own affidavit or any competent testimony, to the satisfaction of the clerk.

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#### CHAPTER IV.

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§ 17. **Power of Districts.**—SEC. 8. Districts shall have power to repeal, alter or modify their proceedings from time to time, as occasion may require.

§ 18. **Power of Meeting to Levy Tax.**—SEC. 4. District meetings legally called shall have power to levy a tax upon the property of the district for any purpose whatever, connected with and for the benefit of schools, and the promotion of education in the district.

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#### **No. 692.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT RELATING TO COMMON SCHOOLS IN THE TERRITORY OF WASHINGTON."**<sup>1</sup>

§ 1. **Organizing New Districts.**—SECTION 1. *Be it enacted, etc.,* That a school meeting may be called at any time for the purpose of organizing a new district, as provided for in section four (4). under the title of county superintendents.<sup>2</sup> Three legal voters shall constitute a quorum to do business.

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§ 2. **Powers—Special Meetings.**—SEC. 4. It shall be the duty of school directors to call special meetings of the district, whenever they shall deem it necessary, to purchase or lease a site for the district school house, as may be designated by a meeting of the district; to build, hire or purchase and to keep in repair such school house.

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§ 3. **Directors May Levy Tax.**—SEC. 7. The directors may levy a special tax not to exceed the amount actually required to furnish fuel for the school house for each year.

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§ 4. **Object of District Meeting Shall be Explained in Notice.**—SEC. 14. Every district meeting shall be expressed in the advertisement for what purpose the meeting so called.

§ 5. SEC. 15. At the first annual meeting there shall be elected a district clerk, \* \* \*

\* \* \* \* \*

§ 6. **Any Meeting May Levy Tax.**—SEC. 21. Any school meeting legally called shall have power by a vote of a majority of the legal voters subject to pay school tax present at said meeting, within such district, to levy a tax, which tax shall not exceed twenty-five cents on the one hundred dollars valuation on taxable property.

<sup>1</sup> Passed Jan. 30, 1858. (See Fifth Reg. Sess. 1857-58, p. 19.) All inconsistent acts and parts of acts are repealed.

<sup>2</sup> See No. 691, § 5, *supra*.



§ 7. **Duty of Clerk.**—SEC. 22. When a district tax shall have been levied by a vote of the district, it shall be the duty of the district clerk, upon the warrant of the directors, to collect the same, with an addition of five per cent. thereon, which additional percentage the clerk shall receive for his services; and he shall have the same authority to enforce the collection of such tax, and the percentage thereon, as the county collector has for collecting the county tax.

\* \* \* \* \*

§ 8. **Notice of Meeting Shall State Object.**—SEC. 24. In all cases when a tax is to be levied, it shall be stated in the notices given of the meeting for what purpose or purposes a tax is to be levied; whether to purchase or lease a suitable site for a school house, or to build or hire a school house, or to keep the same in repair, or to purchase or increase a district library, maps, globes or other apparatus, or to pay teachers, or any other purpose that would be calculated to promote the interest of education: *Provided:* That no money shall be expended for any other purpose than that for which it was raised.

\* \* \* \* \*

**No. 693.—AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>**

**CHAPTER I.**

§ 1. **SECTION 1.** *Be it enacted, etc.*

§ 2. **Levy and Amount of Tax.**—SEC. 2. For the purpose of establishing and maintaining common schools, it shall be the duty of the county commissioners of each county to lay<sup>4</sup> an annual tax of two mills<sup>5</sup> on a dollar on all taxable property of the county, as shown by the assessment rolls made by the county assessors for the same year, and to include the same in their warrant to the collector, and the said collector shall proceed to collect the said tax in the same manner as the other county tax is collected, \* \* \*

\* \* \* \* \*

**CHAPTER II.**

§ 3. **Superintendent.**—SECTION 1. There shall be elected by the legal voters of the respective counties, at the annual elections, a county superintendent of common schools for each county. \* \* \*

\* \* \* \* \*

§ 4. **Formation of Districts.**—SEC. 3. It shall be the duty of the superintendent to district the whole county, so that every resident of the county shall be included in some district, and to divide such portion of his county as shall be inhabited into convenient school districts; to define the boundaries and numbers, and to prepare and keep in his office a map of the districts of the county, upon which the lines and boundaries of each district shall be clearly defined; he shall lay off new districts or divide old ones when the public good shall require it.

§ 5. **Notice of Formation of Districts.**—SEC. 4. Whenever any school district shall be formed by the superintendent, it shall be his duty to prepare a notice in writing of the establishment of such district, describing its boundaries, and to deliver the same to some taxable inhabitant of such district, who shall have asked for the formation of the same. It shall be the duty of said inhabitant, within two weeks after the receipt of such notice, to notify the other inhabitants of the district of the time and place of the first district meeting, which time and place he shall fix by

<sup>1</sup> Passed Jan. 24, 1860. (See Seventh Reg. Sess. 1859-60, p. 304.)

<sup>4</sup> <sup>5</sup> See No. 695, *infra*.

written notices, and which shall be posted up in three public places in the district at least ten days previous to the time of meeting. In case the inhabitants fail to attend in sufficient numbers to do business as hereafter directed, notice may be renewed at such times as may be thought proper.

\* \* \* \* \*

#### CHAPTER III.

§ 6. **Special District Meetings—Quorum.**—SECTION 1. A school meeting may be called at any time for the purpose of organizing a new district, as provided in section four, under the title of county superintendent.<sup>2</sup> No number less than five legal voters shall constitute a quorum to do business in any district meeting.

§ 7. **Power of Special Meeting.**—SEC. 2. Such school meeting shall have power to do all necessary business, the same as the regular annual school meeting would have.

§ 8. **Election of Directors.**—SEC. 3. Such meeting, when assembled, shall organize by the appointment of a chairman and secretary. It shall then proceed by ballot to elect three directors. \* \* \*

\* \* \* \* \*

§ 9. **Duty of Directors.**—SEC. 6. It shall be the duty of the directors of every school district—(1) To call special meetings of the district whenever they shall deem it necessary. (2) \* To make out a tax list of every district tax, containing the names of the taxable inhabitants in the district, and the amount of tax payable by each inhabitant set opposite his name. (3) To annex to such tax list a warrant directed to the clerk of the district for the collection of the sums in such list mentioned, including such percentage for fees of clerk as they may deem just, not exceeding five per cent. (4) To purchase or lease a site for the district school house as designated by a meeting of the district, and to build, hire or purchase, keep in repair, and furnish such school house with necessary fuel and appendages, out of the funds collected and paid to the clerk for such purpose, and to have the custody and safe keeping of the district school house. \* \* \*

\* \* \* \* \*

§ 10. **Election of District Clerk.**—SEC. 9. The first annual school meeting shall also elect a district clerk, who shall continue in office for the term of three years. \* \* \*

§ 11. **Duty of Clerk.**—SEC. 10. It shall be the duty of the clerk of each district: \* \* \* (2) To give notice of annual or special meetings. \* \* \* (4) To give due notice at least ten days before any tax that may be assessed shall be collected, by written or printed notices in three of the most public places in the district. (5) To collect all district taxes which he shall be required by the warrant from the directors to collect within the time limited in each warrant for its return; and he shall have the same authority to enforce<sup>7</sup> the collection of such tax as the county collector has for collecting the county tax, and he shall be allowed for collecting such percentage as the directors may deem proper.

\* \* \*

\* \* \* \* \*

#### CHAPTER IV.

\* \* \* \* \*

§ 12. **Power of Districts.**—SEC. 8. Districts shall have power to repeal, alter or modify their proceedings from time to time, as occasion may require.

§ 13. **Power of Taxation.**—SEC. 4. District meetings legally called shall have power to levy a tax upon the property of the district for any

<sup>2</sup> See § 5 of this No.

<sup>6</sup> <sup>7</sup> See No. 695, *infra*.

purpose whatever, connected with and for the benefit of schools and the promotion of education in the district, subject to the restrictions hereinafter provided.

\* \* \* \* \*

§ 14. **District is a Corporate Body.**—SEC. 11. When a district is organized, it shall be to all intents and purposes a body corporate, capable of suing and being sued and fully competent to transact all business appertaining to schools or school houses in their own district; and it shall be the duty of the directors to prosecute or defend any demands for or against their district, and notice shall be served upon one of the directors of any suit brought against a district.

\* \* \* \* \*

§ 15. **Purposes of Taxation.**—SEC. 20. [No tax shall be levied by any district for the hiring of any teacher; but<sup>a</sup>] any district may levy a tax for any of the following purposes: To purchase a suitable site for the erection of a school house; the building or repairing of the same; the purchase or increase of a district library, or maps, globes, or other apparatus for the use of said district or school; but no district shall levy any tax for any of these purposes until the directors [or some other person<sup>a</sup>] shall have sought to obtain the amount required by voluntary subscriptions, and no money shall be expended by the directors or clerk for any other purpose than that for which it was raised.

§ 16. **Notice of Meeting Shall State Object.**—SEC. 21. In all cases when a tax is to be levied, it shall be stated in the notices given of the meeting for what purpose or purposes a tax is to be levied.

§ 17. **Property of Non-Residents: How Taxed.**—SEC. 22. The directors may assess, for any of the objects named in section twenty-one (twenty), the property of non-resident holders in any amount they may deem necessary, without calling a meeting of the district for that purpose, where the inhabitants thereof agree by voluntary subscription to raise the amount required; said assessment not to exceed the average per centum of the subscriptions made by the inhabitants of the district; but if a district meeting be held to levy a tax on all the taxable property in the district, the property of non-residents shall be assessed in equal proportion with the rest, and in neither case shall any tax exceed twenty-five cents on the one hundred dollars valuation on taxable property, according to the valuation made for the assessment of county taxes.

§ 18. **Clerk's Percentage to be Added to Tax.**—SEC. 23. The directors may add such a per centum, not exceeding five, as they may deem requisite to remunerate the clerk for his services as collector, but the amount shall be specified and added as a separate item in the schedule or account of taxes so levied or assessed, and where any person shall pay the same within ten days after the notice of such tax is made public by the clerk, in accordance with the fourth clause of section ten of chapter three, the percentage shall be deducted, but in all other cases it shall be collected.

\* \* \* \* \*

§ 19. **Annual Meeting.**—SEC. 25. There shall be an annual school meeting held in each district upon the first Friday in November; and notices of all annual or special meetings shall be in writing, signed by the directors or the clerk of the district, and shall state the object for which the meeting is called; and shall be posted up in three public places in the district at least six days previous to the holding of such meeting.

\* \* \* \* \*

§ 20. **Power of Meeting to Levy Tax.**—SEC. 28. A school meeting, legally called, shall have power, by the vote of a majority present, to levy a tax on all the taxable property in the district.

\* \* \* \* \*

<sup>a</sup> See Nos. 694 and 695, *infra*.

**No. 694.—AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 456, chap. 1, sec. 2; chap. 2, secs. 1, 3, 4; chap. 3, secs. 1, 2, 3, 6, 9, 10; chap. 4, secs. 3, 4, 11, 20, 21, 22, 23, 25, 28.) This No. is *verbatim* as No. 693, *supra*, except § 15 of said No. at \* omit those parts included in [ ]. All conflicting acts or parts of acts repealed.

**No. 695.—AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Jan. 27, 1866. (See Fourteenth Reg. Sess. 1865-66, p. 3, chap. 1, sec. 2; chap. 2, secs. 1, 3, 4; chap. 3, secs. 1, 2, 3, 6, 9, 10; chap. 4, secs. 3, 4, 10, 17, 18, 19, 20, 21, 24; chap. 6, sec. 2.) In effect from date. This No. is *verbatim* as No. 693, *supra*, except § 2 of said No. at 4 instead of "lay" read "levy," and at 5 instead of "two mills" read "three mills," and § 9 at \* instead of subdivision 2 of said § read as follows: "(2.) To procure from county auditor a list containing the names of the taxable inhabitants in the district, and the amount of district tax payable by each inhabitant set opposite his name:" and § 11 at 7 instead of "same authority to enforce," read "same authority as the county collector to enforce," and § 15 at \* omit those parts included in [ ], and § 13 of said No. is omitted, and the following, which does not appear in said No., appears in this:

**"CHAPTER VI.**

"SECTION 1. All acts and parts of acts conflicting with any of the provisions of this act be and the same are hereby repealed.

"SEC. 2. This act shall not apply to the counties of Kitsap, Pierce, Clallam and Island; and the acts and parts of acts repealed by section one of this chapter shall be and remain in force in the counties named in this section."

**No. 696.—AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>**

**CHAPTER I.**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Levy and Amount of Tax.**—SEC. 2. For the purpose of establishing and maintaining common schools, it shall be the duty of the county commissioners of each county to levy an annual tax of three mills<sup>2</sup> on a dollar on all taxable property of the county as shown by the assessment rolls made by the county assessor for the same year, and to include the same in their warrant to the collector, and the said collector shall proceed to collect the said tax in the same manner as other county tax is collected, \* \* \* neither shall it be lawful for any county treasurer to receive county orders in payment for county school tax \* \* \*

**CHAPTER II.**

§ 3. **Superintendent.**—SECTION 1. There shall be elected by the legal voters of the respective counties in Washington Territory, the county superintendent of common schools for each county, \* \* \*

§ 4. **Formation of Districts.**—SEC. 3. It shall be the duty of the superintendent to district the whole county so that every resident in the county shall be included in some district, and to divide such portion of his county as shall be inhabited into convenient school districts, to define the boundaries and numbers, and to prepare and keep in his office a map of the districts of the county, upon which the lines and boundaries of each district shall be clearly defined; he shall lay off new districts or divide old ones when the public good shall require it.

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 23.) In effect from date.

<sup>2</sup> See Nos. 698, 699, *infra*.

§ 5. **Notice of Formation of Districts.**—SEC. 4. Whenever any school district shall be formed by the superintendent, it shall be his duty to prepare a notice in writing of the establishment of such district, describing its boundaries, and to deliver the same to some taxable inhabitant of such district who shall have asked for the formation of the same. It shall be the duty of said inhabitant, within two weeks after the receipt of such notice, to notify the other inhabitants of the district of the time and place of the first district meeting, which time and place he shall fix by written notices, and which shall be posted up in three public places in the district at least ten days previous to the time of meeting. In case the inhabitants fail to attend in sufficient numbers to do business as hereinafter directed, notice may be renewed at such times as may be thought proper.

\* \* \* \* \*

CHAPTER III.

§ 6. **Special District Meetings—Quorum.**—SECTION 1. A school meeting may be called at any time for the purpose of organizing a new district, as provided in section four, chapter two. No number less than five legal voters shall constitute a quorum to do business in any district meeting.

§ 7. **Power of Special Meetings.**—SEC. 2. Such school meeting shall have power to do all necessary business the same as the regular school meeting would have.

§ 8. **Election of Directors.**—SEC. 3. Such meeting, when assembled, shall organize by the appointment of a chairman and secretary. It shall then proceed by ballot to elect three directors. \* \* \*

\* \* \* \* \*

§ 9. **Duty of Directors.**—SEC. 6. It shall be the duty of the directors of every school district—(1) To call special meetings of the district whenever they shall deem it necessary, \* \* \* (2) To make out a tax list for their district whenever an assessment has been made, containing the names of all persons liable to pay taxes in the district, and the amount payable by each inhabitant set opposite his or her name. (3) To annex to such list a warrant, directed to the clerk of the district, for the collection of the sums in such list mentioned, including such percentage for fees of clerk as they may deem just, not exceeding five per cent. (4) To purchase or lease a site for the district school house, as designated by a meeting of the district, and to build, hire, or purchase, keep in repair and furnish such school house with necessary fuel and appendages, and such privies and outhouses as decency requires, out of the funds collected and paid to the clerk for such purpose, and to have the custody and safe keeping of the district school house. \* \* \*

\* \* \* \* \*

§ 10. **Election of District Clerk.**—SEC. 9. The first annual school meeting shall also elect a district clerk, who shall continue in office for the term of three years. \* \* \*

§ 11. **Duty of Clerk.**—SEC. 10. It shall be the duty of the clerk of the district: \* \* \* (2) To give notice of annual or special meetings. (3) To procure a list of all residents in the district between the ages of four and twenty-one years, excepting those whose parents or guardians are not residents of the district. (4) To give due notice at least ten days before any tax that may be assessed shall be collected, by written or printed notices in three of the most public places in the district. (5)<sup>a</sup> To collect all district taxes which he shall be required by the warrant from the directors to collect, within the time limited in each warrant for its return, and he shall have the same authority as the county collector to en-

<sup>a</sup> See No. 699, *infra*.



force the collection of such tax, and he shall be allowed for collecting, such percentage as the directors may deem proper. \* \* \*

\* \* \* \* \*

#### CHAPTER IV.

\* \* \* \* \*

§ 12. **Power of Districts.**—SEC. 3. Districts shall have power \* to repeal, alter or modify their proceedings from time to time as occasion may require.

§ 13. **Power of Taxation.**—SEC. 4. District meetings legally called shall have power to levy a tax upon the property of the district for any purpose whatever connected with and for the benefit of schools and promotion of education in the district.

\* \* \* \* \*

§ 14. **District is Corporate Body.**—SEC. 10. When a district is organized it shall be to all intents and purposes a body corporate, capable of suing and being sued, and fully competent to transact all business appertaining to schools or school houses in their own district; and it shall be the duty of the directors to prosecute or defend any demand for or against their district, and notice shall be served upon one of the directors of any suit brought against a district.

\* \* \* \* \*

§ 15. **Notice of Meeting Shall State Object.**—SEC. 17. In all cases when a tax is to be levied, it shall be stated in the notices given of the meeting for what purpose or purposes the tax is to be levied.

§ 16. **Property of Non-Residents: How Taxed.**—SEC. 18. If a district meeting be held to levy a tax on all the taxable property in the district, the property of non-residents shall be assessed in equal proportion with the rest [according to the valuation made by the assessment for county taxes<sup>4</sup>].

§ 17. **Clerk's Percentage to be Added to Tax.**—SEC. 19. The directors may add such a per centum, not exceeding five, as they may deem requisite to remunerate the clerk for his services as collector, but the amount shall be specified and added as a separate item in the schedule or account of taxes so levied or assessed, and where any person shall pay the same within ten days after the notice of such tax is made public by the clerk, in accordance with the fourth clause of section ten of chapter three, the percentage shall be deducted, but in all other cases it shall be collected.

§ 18. **Annual Meetings.**—SEC. 20. There shall be an annual school meeting held in each district upon the first Friday in November, and notice of all annual or special meetings shall be in writing, signed by the directors or the clerk of the district, and shall state the object for which the meeting is called, and shall be posted up in three public places in the district at least six days previous to the holding of such meeting.

\* \* \* \* \*

§ 19. **Power of Meeting to Levy Tax.**—SEC. 23. A school meeting, legally called, shall have power, by a vote of a majority present, to levy a tax on all taxable property in the district.

\* \* \* \* \*

#### CHAPTER V.

\* \* \* \* \*

§ 20. **Repealing Clause.**—SEC. 10. All acts or parts of acts heretofore passed in relation to schools are hereby repealed.

\* \* \* \* \*

<sup>3</sup> <sup>4</sup> See Nos. 698, 699, *infra*.

**No. 697.—AN ACT IN RELATION TO COMMON SCHOOLS IN WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Special Taxes.**—SECTION 1. *Be it enacted, etc.*, That it shall be competent for the directors in any school district, after the public money has been expended, upon a petition signed by a majority of all the parents and guardians of the scholars and resident property holders paying taxes in such district, to levy a tax on all the taxable property in such district, for the purpose of defraying the expenses of sustaining a school: *Provided*, Said assessment shall not exceed two (2) mills on the dollar on all the taxable property in such district.

\* \* \* \* \*

<sup>1</sup>Approved Jan. 29, 1868. (See First Bien. Sess. 1867-68, p. 18.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 698.—AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 12; chap. 2, sec. 2; chap. 3, secs. 1, 3, 4; chap. 4, secs. 1, 2, 3, 6, 9, 10; chap. 5, secs. 3, 4, 10, 16, 17, 18, 19.) This No. is *verbatim* as No. 696, *supra*, except § 2 of said No. at 2 instead of "three mills" read "four mills," and § 12 at 3 instead of "shall have power" read "shall have the power," and § 16 at 4 omit that part included in [ ] and read instead as follows: "by the directors of the district." All conflicting acts and parts of acts repealed. In effect from and after the 1st day of January, A. D. 1872.

**No. 699.—AN ACT ESTABLISHING A COMMON SCHOOL SYSTEM FOR THE TERRITORY OF WASHINGTON.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 14, 1873. (See Fourth Reg. Sess. 1873, p. 419; chap. 2, sec. 2; chap. 3, secs. 1, 3, 4; chap. 4, secs. 1, 2, 3, 6, 9, 10; chap. 5, secs. 3, 4, 10, 16, 17, 18, 19.) This No. is *verbatim* as No. 696, except § 2 of said No. at 2 instead of "annual tax of three mills" read "annual tax of not more than four mills," and § 11 at 5 instead of subdivision 5, read as follows: "(5) It shall be the duty of the clerk of each school district to collect all district taxes which shall be required by the warrant from the directors to collect, and he shall have the same authority as the county collector to enforce the collection of such tax; and he shall return his delinquent tax list at the time specified in said warrant; and thereupon it shall be the duty of the directors to issue a warrant to their respective clerks to collect all taxes hereafter returned delinquent, by distress, and he shall have the same authority to enforce the collection of such delinquent taxes as he has for the collection of the taxes by the original warrant; and he shall be allowed for collecting said delinquent taxes such percentage as the directors may deem proper;" and instead of § 13 of said No., read as follows: "Sec. 4. District meetings legally called shall have power, by a vote of a majority present, to levy a tax upon the property of the district, not exceeding ten mills on a dollar, for the purpose of building and repairing school houses: *Provided*, That no district shall levy more than one special tax in one year." And § 16 at 4 omit that part included in [ ] and instead read as follows: "by the directors of the district;" § 19 of said No. is omitted. All acts and parts of acts heretofore passed in relation to common schools in the Territory of Washington are repealed. It effect from date.

**No. 700.—AN ACT TO PROVIDE A SYSTEM OF COMMON SCHOOLS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

TITLE III.

§ 2. **Superintendent.**—SEC. 17. A county superintendent of common schools shall be elected in each county of the Territory \* \* \*

\* \* \* \* \*

§ 3. **Duty of Superintendent.**—SEC. 23. It shall be the duty of the county superintendent to inquire and ascertain whether the boundaries

<sup>1</sup>Approved, Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 259.)

of school districts in his county are definitely and plainly described in the records of the county commissioners, and if such boundaries are not plainly described on such records, then it shall be his duty to furnish to said board of county commissioners accurate boundaries of all school districts, and he shall keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting or incorrectly described, he shall change, harmonize and describe them, and make a report of such actions to the county commissioners, and on being ratified by the county commissioners, the boundaries and descriptions so made shall be legal boundaries and descriptions of the district [districts] of the county. The county superintendent shall furnish the district clerks with descriptions of the boundaries of their respective districts.

\* \* \* \* \*

#### TITLE IV.

§ 4. **Manner of Organization of Districts, etc.**—SEC. 27. For the purpose of organizing a new district, or for the subdivision of or change in the boundaries of an old one, except as provided in section twenty-three, at least five heads of families must present a petition to the county superintendent, setting forth the boundaries of the new district asked for, or the change of the boundaries desired, with the reason of the same. The county superintendent shall, after giving due notice to all parties interested, transmit the petition to the board of county commissioners, with his approval or disapproval, and such changes in the boundaries as he may deem necessary or advisable. The commissioners shall establish the district as approved by the county superintendent: *Provided*, That by vote of the board they may establish the district in accordance with the original prayer of the petition, or such other modification as they may choose to make, or may reject it. \* \* \*

§ 5. **Lien of Taxes When New District Formed.**—SEC. 28. No new district formed by the subdivision of an old one shall be entitled to any share of the public money belonging to the old district until a school has been actually commenced in such new district; and unless within eight months from the action of the county commissioners, a school is opened, the action making a new district shall be void, and all elections or appointments of directors made in consequence of such action and all rights and office of the parties so elected or appointed shall cease and determine; and all taxes which may have been levied in such old district shall be valid and binding upon the real and personal property of the new district, and shall be collected and paid into the school fund of the district.

\* \* \* \* \*

#### TITLE V.

§ 6. **Power of Directors.**—SEC. 34. The board of directors of each school district shall have custody of all school property belonging to the district, and shall have power in the name of the district, or in their own names as directors of the district, to convey by deed all the interest of their district in or to any school house or lot directed to be sold by vote of the district, and all conveyances of real estate made to the district, or to the directors thereof, shall be made to the board of directors of the district and to their successors in office; said board in the name of the district shall have power to transact all business necessary for maintaining schools and protecting the rights of the district.

§ 7. **Election of Directors and Clerk.**—SEC. 35. An annual school meeting for the election of school directors and district clerk shall be held in each district \* \* \*

\* \* \* \* \*

§ 8. **Duty of Directors.**—SEC. 38. Every board of directors, unless otherwise specially provided by law, shall have power, and it shall be

their duty: \* \* \* (5) To rent, repair and furnish school houses. (6) To build or remove school houses, purchase and sell school lots, when the directors are directed by a vote of the district so to do. (7) To purchase personal property, and to receive, lease and hold in fee or in trust for their district, any or all real or personal property for the benefit of the school thereof. \* \* \*

\* \* \* \* \*  
**§ 9. Levy and Amount of Tax.**—SEC. 58. For the purpose of establishing and maintaining public schools, it shall be the duty of county commissioners of each county to levy an annual tax not less than three and not more than six mills on the dollar on all taxable property within their respective counties, as shown by the assessment roll made by the county assessor for the same year, and to include the same in their warrant to the collector, and the said collector shall proceed to collect said tax in the same manner as the other taxes are collected, and the said money so collected shall be paid over to the county treasurer, to be drawn in the manner prescribed in this act. \* \* \*

TITLE XI.

**§ 10. Union District.**—SEC. 60. Whenever the inhabitants of two or more school districts may wish to unite for the purpose of establishing a graded school, in which instruction shall be given in the higher branches of education, the clerks of the said districts shall, upon a written application of five voters of their respective districts, call a meeting of the voters of such districts at some convenient place by posting up written notices, in like manner as provided for calling district meetings, and if a majority of the voters of each [of] such districts shall vote to unite for the purpose herein stated, they shall at that meeting, or at an adjourned meeting, elect three directors and a clerk for such a union district.

\* \* \* \* \*  
**§ 11. Power of Union Districts.**—SEC. 63. The said union district may levy taxes for the purpose of purchasing or furnishing proper buildings for the accommodation of the school, or for the purpose of defraying necessary expenses and paying teachers, but shall be governed in all respects by the law herein provided for levying and collecting district taxes.

TITLE XV.

**§ 12. Special Taxes: How Levied, etc.**—SEC. 81. The board of directors of any district may, when in their judgment it is advisable, submit to the qualified school electors of the district the question whether a tax shall be raised to furnish additional school facilities for said district, or to maintain any school or schools in such district, or for building one or more school houses, or for removing or building additions to one already built, or for the purchase of globes, maps, charts, books of reference and other appliances or apparatus for teaching, or for any or all of these purposes: *Provided*, Such election shall be called by posting notices in three public places in the district for at least twenty days, said meeting to be held on or before the first Monday in July of each year; said notices shall contain the time and place of holding the election, the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used. The directors shall act as judges to conduct the election, and it shall be in all other respects, as nearly as practicable, in conformity with the general election law. At such elections the ballot shall contain the words "Tax, yes" or "Tax, no." If the majority of the votes cast are "Tax, yes," the officers of the election shall certify the fact to the district clerk, who shall at once proceed to copy from the last assessment roll of the county assessor the list of property liable to taxation situated in or owned by residents of the district, and shall deliver the

same to the board of directors, who may allow him a reasonable compensation therefor out of the proceeds of said tax; said compensation not to be more than four dollars per day. The directors shall, upon receiving the roll, deduct ten per centum therefrom for anticipated delinquencies, and then dividing the sum voted, together with the estimated cost of assessing and collecting added thereto, by the remainder of the roll, ascertain the rate per cent. required, and the rate so ascertained (using the full per cent. on each one hundred dollars, instead of the fraction) shall be and is hereby levied and assessed to, on or against the persons or property named or described in said roll, and it shall be a lien on all such property until the tax is paid; and the said tax, if not paid within the time limited by the next section for its payment, shall be recovered by suit in the same manner and with the same costs as delinquent Territorial and county taxes. The directors, upon receiving any assessment roll from the district clerk, shall give five days' notice thereof by posting notices thereof in three public places in the district, and shall sit for at least one day as a board of equalization, at such time and place as shall have been named in said printed notices, and they shall have the same power as county boards of equalization to make any change in said assessment roll: *Provided*, That there shall be but one tax levied in each year under this section, and that [that] the tax so levied shall not exceed ten mills on the dollar: *Provided further*, That not more than two meetings shall be held in any one year under the provisions of this section.

§ 13. **Special Tax: Manner of Collection.**—SEC. 82. As soon as the rate of taxation has been determined, as provided in the last preceding section, the directors shall certify the same to the county auditor, who shall extend the same upon the general assessment roll of the county and certify the same to the county treasurer, who shall proceed to collect the tax in the same manner and at the same time, and with the same power and authority to enforce payment of the same, as in the case of county and Territorial taxes. \* \* \*

\* \* \* \* \*

#### TITLE XVII.

\* \* \* \* \*

§ 14. **Repealing Clause.**—SEC. 91. All acts and parts of acts upon the subject matter contained in this act shall be and the same are hereby repealed.

§ 15. **Date in Effect.**—SEC. 92. This act shall be in force from and after the 31st day of December, one thousand eight hundred and seventy-seven.

### No. 701.—AN ACT IN RELATION TO GRADED SCHOOLS IN INCORPORATED CITIES AND TOWNS.<sup>1</sup>

§ 1. **Separate District.**—SECTION 1. *Be it enacted, etc.*, That each incorporated city or town in this Territory shall be comprised in one school district, and under one board of school directors, \* \* \*

\* \* \* \* \*

§ 2. **Power of Taxation.**—SEC. 4. The directors of any school district composed of any incorporated city or town shall, when in their opinion it is necessary, levy a special tax of not exceeding ten mills in any one year, for the purpose of building school houses, which tax shall be levied and collected as provided in the general school law: *Provided*, That no special school tax shall be levied or assessed in any district until the same shall have been submitted to the qualified voters of such districts, as required by law, and a majority of the votes cast shall be in favor of such tax.

<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Bien. Special Sess. 1881, p. 27.) In effect from date.



§ 3. **Special Taxes.**—SEC. 5. The directors of such districts may also have power to levy a special tax of not exceeding five (5) mills in any one year for tuition purposes in their districts: *Provided*, That such tax shall be levied in accordance with the provisions of section four of this act.

\* \* \* \* \*

No. 702.—CHAPTER CCXLV.—SCHOOL LAW.<sup>1</sup>

\* \* \* \* \*

TITLE III.

§ 1. **Superintendent.**—SEC. 3170. A county superintendent of common schools shall be elected in each county of the Territory \* \* \*

\* \* \* \* \*

§ 2. **Duty of Superintendent.**—SEC. 3176. It shall be the duty of the county superintendent to inquire and ascertain whether the boundaries of school districts in his county are definitely and plainly described in the records of the county commissioners, and if such boundaries are not plainly described on such records, then it shall be his duty to furnish to said board of county commissioners accurate boundaries of all school districts; and he shall keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting or incorrectly described, he shall change, harmonize and describe them, and make a report of such action to the county commissioners; and on being ratified by the county commissioners, the boundaries and descriptions so made shall be legal boundaries and descriptions of the districts of the county. The county superintendent shall furnish the district clerks with descriptions of the boundaries of their respective districts.

\* \* \* \* \*

TITLE IV.

§ 3. **Manner of Organization of Districts, etc.**—SEC. 3180. For the purpose of organizing a new district, or for the subdivision of or change in the boundaries of an old one, except as provided in section 3176, at least five heads of families must present a petition to the county superintendent, setting forth the boundaries of the new district asked for, or the change of the boundaries desired, with the reason for the same. The county superintendent shall, after having given notice to parties interested by posting notices twenty days in three of the most public places of the districts affected by said change, on the day fixed in said notice, proceed to hear and determine said petition, and make an order fixing said boundaries. \* \* \*

§ 4. **Lien of Taxes When New District Formed.**—SEC. 3181. No new district formed by the subdivision of an old one shall be entitled to any share of the public money belonging to the old district until a school has been actually commenced in such new district; and unless within eight months from the action of the county commissioners, a school is opened, the action making a new district shall be void, and all elections or appointments of directors made in consequence of such action, and all rights and office of the parties, so elected or appointed, shall cease and determine; and all taxes which may have been levied in such old district shall be valid and binding upon the real and personal property of the new district, and shall be collected and paid into the school fund of the district.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 7, 1881. (See Code 1881, p. 546.) For repealing clause, date in effect, etc., see Nos. 338, 339, 340.

## TITLE V.

**§ 5. Power of Directors.**—SEC. 3187. The board of directors of each school district shall have custody of all school property belonging to the district, and shall have power, in the name of the district, or in their own names as directors of the district, to convey by deed all the interest of their district in or to any school house or lot directed to be sold by vote of the district, and all conveyances of real estate made to the district or to the directors thereof shall be made to the board of directors of the district and to their successors in office; said board in the name of the district shall have power to transact all business necessary for maintaining schools and protecting the rights of the district.

**§ 6. Election of Directors and Clerk.**—SEC. 3188. An annual school meeting for the election of school directors and district clerk shall be held in each district \* \* \*

§ 7. **Duty of Directors.**—SEC. 3191. Every board of directors, unless otherwise especially provided by law, shall have power and it shall be their duty: \* \* \* (5) To rent, repair and furnish school houses. (6) To build or remove school houses, purchase and sell school lots when the directors are directed by a vote of the district so to do. (7) To purchase real and personal property in the name of the district, and to receive, lease and hold for their district any or all real or personal property. \* \* \*

## TITLE VII.

**§ 8. Notice of Meetings.**—SEC. 8198. District school meetings, annual or special, shall be held at such time as may be designated in the notice therefor. \* \* \*

## TITLE X.

**§ 9. Levy and Amount of Tax.**—SEC. 8211. For the purpose of establishing and maintaining public schools, it shall be the duty of county commissioners of each county to levy an annual tax, not less than two nor more than six mills on the dollar, on all taxable property within their respective counties, as shown by the assessment roll made by the county assessor for the same year, and to include the same in their warrant to the collector, and the said collector shall proceed to collect said tax in the same manner as the other taxes are collected, and the said money so collected shall be paid over to the county treasurer, to be drawn in the manner prescribed in this act. \* \* \*

## TITLE XI.

**§ 10. Union District.**—SEC. 3213. Whenever the inhabitants of two or more school districts may wish to unite for the purpose of establishing a graded school, the clerks of said districts shall, upon a written application of five voters of their respective districts, call a meeting of the voters of such districts at some convenient place by posting up written notices in like manner as provided for calling district meetings, and if a majority of the voters of each of such districts shall vote to unite for the purpose herein stated, they shall at that meeting, or at an adjourned meeting, elect three directors and a clerk for such a union district.<sup>2</sup>

**§ 11. Powers of Union Directors.**—SEC. 3214. The board of directors provided for in the preceding section shall, in all matters relating to

<sup>2</sup> See No. 703, *infra*.

graded schools, possess all the power, discharge all the duties, and be governed by the laws herein provided for district directors.

\* \* \* \* \*

TITLE XII.

\* \* \* \* \*

§ 12. **Municipal Corporation: Levy of School Tax.**—SEC. 8219. The directors of any school district composed of any incorporated city or town shall, when in their opinion it is necessary, levy a special tax of not exceeding ten mills in any one year, for the purpose of building school houses, which tax shall be levied and collected as provided in the general school law: *Provided*, That no special school tax shall be levied or assessed in any district until the same shall have been submitted to the qualified voters of such districts, as required by law, and a majority of the votes cast shall be in favor of such tax.

§ 13. **Municipal Corporation: Special Tax for Tuition.**—SEC. 8220. The directors of such district may also have power to levy a special tax of not exceeding five mills in any one year for tuition purposes in their districts, as provided by law: *Provided*, That such tax shall be levied in accordance with the provisions of section 8233 of this chapter.

§ 14. **Power of School Districts of Municipal Corporations.**—SEC. 8221. When two or more school districts in any town or city are united by the provisions of this act, all the directors of the districts so united shall act as directors of said new district, and shall have all the powers and authority conferred by the laws of this Territory upon school directors (and they may designate the person to act as clerk of said district) until the next annual school meeting in said district, at which time there shall be three directors and one clerk elected for said district in the manner provided by law, who shall hold their respective offices as provided for officers of new districts.

TITLE XV.

\* \* \* \* \*

§ 15. **Special Taxes: How Levied, etc.**—SEC. 8233. The board of directors of any district may, when in their judgment it is advisable, submit to the qualified school electors of the district the question whether a tax shall be raised to furnish additional school facilities for said district, or for building one or more school houses or for removing or building additions to one already built, or for the purchase of globes, maps, charts, books of reference and other appliances or apparatus for teaching, or for any or all of these purposes. Such election shall be called by posting notices in three public places in the district for at least twenty days; said notices shall contain the time of and place of holding the election, the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used. The directors shall act as judges to conduct the election, and it shall be in all other respects, as nearly as practicable, in conformity with the general election law. At such elections the ballots shall contain the words "Tax, yes," or "Tax, no." If the majority of votes cast are "Tax, yes," the officers of the election shall certify the fact to the district clerk, who shall at once proceed to copy from the assessment roll of the list of property liable to taxation situated in or owned by residents of the district, and shall deliver the same to the board of directors, who may allow him a reasonable compensation therefor out of the proceeds of said tax; said compensation not to be more than four dollars per day.<sup>a</sup> The directors shall, upon receiving the roll, deduct ten per centum therefrom for anticipated delinquencies, and then dividing the sum voted, together with the estimated cost of assessing and collecting added thereto, by the remainder of the roll, ascertain the rate per cent. required, and the rate so ascertained (using the full per cent.

<sup>a</sup> See No. 703, *infra*.

on each one hundred dollars instead of the fraction) shall be and is hereby levied and assessed to, on or against the persons or property named or described in said roll, and it shall be a lien on all such property until the tax is paid; and the said tax, if not paid within the time limited by the next section for its payment, shall be recovered by suit in the same manner and with the same costs as delinquent Territorial and county taxes: *Provided*, That there shall be but one tax levied in each year under this section, and that the tax so levied shall not exceed ten mills on the dollar: *Provided further*, That not more than two meetings shall be held in any one year under the provisions of this section.

§ 16. **Special Tax: Manner of Collection.**—SEC. 3234. As soon as the rate of taxation has been determined as provided in the last preceding section, the directors shall certify the same to the county auditor, who shall extend the same upon the general assessment roll of the county and certify the same to the county treasurer, who shall proceed to collect the tax in the same manner and at the same time, and with the same power and authority to enforce payment of the same, as in the case of county and Territorial taxes. \* \* \*

**No. 703.—AN ACT TO AMEND THE COMMON SCHOOL LAW OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup>Approved Nov. 28, 1883. (See Ninth Bien Sess. 1883, p. 3; secs. 17, 23, 27, 34, 35, 38, 43, 58, 60, 61, 66, 67, 80, 81.) This No. is *verbatim* as No. 702, *supra*, except § 10 at 2 after "district" read as follows: "Single districts containing two hundred or more children, entitled to draw public money, may, in like manner, organize a graded school district;" and § 15 at 3 omit all after "per day," and instead read as follows: "*Provided*, That, in all districts including incorporated towns and cities, the district clerk shall copy the list of property within the corporate limits from the town or city assessment roll, and the property within the district but outside the corporate limits, from the county assessment roll: *Provided*, That in the above mentioned district including incorporated towns or cities, the directors shall certify the same to the district clerk, who shall extend the same on the roll prepared by him, and the rate ascertained shall be and is hereby levied and assessed to, on or against the persons or property named or described in said roll, and it shall be a lien on all such property until the tax is paid. The clerk shall publish for three successive weeks in some newspaper published in said district, or if there be none, then in some newspaper published nearest thereto, a notice that said special tax roll is now in his hands and that the taxes are due thereon, and the said taxes, if not paid within sixty days from and after the first day of publication of such notice, shall be declared delinquent and shall be recovered by suit in the same manner and with the same costs as other delinquent taxes in said town or city. The district clerk shall follow the same procedure in the collection of taxes, advertising sale, and deeding of property sold for delinquent taxes, as that prescribed for similar duties in the delinquent taxes of said county, and shall be allowed the same fees therefor. The directors shall, upon receiving the roll, deduct ten per centum therefrom for anticipated delinquencies, and dividing the sum voted together with the estimated cost of assessing and collecting added thereto by the remainder of the roll, ascertain the rate per cent. required, and the rate so ascertained (using the full per cent. on each one hundred dollars instead of the fraction), shall be and is hereby levied and assessed to, on or against the persons or property named or described in said roll, and it shall be a lien on all such property until the tax is paid; and the said tax, if not paid within the time limited by the next section for its payment, shall be recovered by suit in the same manner and with the same costs as delinquent Territorial and county taxes: *Provided further*, That not more than two meetings shall be held in any one year under the provisions of this section." "All acts and parts of acts upon any subject matter contained in this act" repealed. In effect from date.

**No. 704.—AN ACT TO AMEND THE COMMON SCHOOL LAW OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

**TITLE I.**

§ 1. **SECTION 1.** *Be it enacted, etc.*

<sup>1</sup>Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 3.) In effect from date.

TITLE III.

§ 2. **Superintendent.**—SEC. 17. A county superintendent of common schools shall be elected in each county of the Territory \* \* \*

\* \* \* \* \*

§ 3. **Duty of Superintendent.**—SEC. 23. It shall be the duty of the county superintendent to inquire and ascertain whether the boundaries of school districts in his county are definitely and plainly described in the records of the county commissioners, and if such boundaries are not plainly described on such records, then it shall be his duty to furnish to said board of county commissioners accurate boundaries of all school districts; and he shall keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting or incorrectly described he shall change, harmonize and describe them, and make a report of said action to the county commissioners; and on being ratified by the county commissioners, the boundaries and descriptions so made shall be legal boundaries and descriptions of the districts of the county. The county superintendent shall furnish the district clerks with descriptions of the boundaries of their respective districts.

\* \* \* \* \*

TITLE IV.

§ 4. **Manner of Organization of Districts, etc.**—SEC. 27. For the purpose of organizing a new district or for the subdivision of or change in the boundaries of an old one, except as provided in section twenty-three, at least five heads of families residing within the boundaries of the proposed new district must present a petition to the county superintendent, setting forth the boundaries of the new district asked for or the change of the boundaries desired, with reasons for the same. The county superintendent shall give notice to parties interested by posting notices twenty days prior to the time of hearing in one of the most public places of the proposed new district or change in the old one, and one on the school house of each district affected by said change, or, if there be no school house, in one of the most public places of said district, and on the day fixed in the notice proceed to hear said petition, and if he deems advisable, to grant it and make an order fixing said boundaries. He shall report his action to the board of county commissioners at their next regular session, and if they approve the same they shall cause to be entered in their minutes an order confirming said action and describing said boundaries. Said county superintendent shall post notices as provided above of the hearing by said board of county commissioners upon his said action.

§ 5. **Effect of Failure to Establish School in New District.**—SEC. 28. No new district formed by the subdivision of an old one shall be entitled to any share of public money belonging to the old district until a school has actually commenced by such new district; and unless within eight months from the action of the county superintendent and county commissioners, as provided in section 27, a school is opened, the action making a new district shall be void, and all elections or appointments of directors made in consequence of such action, and all rights and office of the parties so elected or appointed shall cease and determine; and all taxes which may have been levied in such old district shall be valid and binding upon the real and personal property of new districts, and shall be collected and paid into the school fund of the old district.

\* \* \* \* \*

TITLE V.

§ 6. **Power of Directors.**—SEC. 84. The board of directors of each school district shall have custody of all school property belonging to the district, and shall have power in the name of the district or in their own names as



directors of the district to convey by deed all the interest of their district in or to any school house or lot directed to be sold by vote of the district, and all conveyances of real estate made to the district or to the directors thereof shall be made to the board of directors of the district and to their successors in office; said board in the name of the district shall have power to transact all business necessary for maintaining schools and protecting the rights of the district.

§ 7. **Election of Directors and Clerk.**—SEC. 35. An annual school meeting for the election of school directors and district clerk shall be held in each district on the first Saturday in November of each year, \* \* \*

\* \* \* \* \*

§ 8. **Duty of Directors.**—SEC. 38. Every board of directors, unless otherwise specially provided by law, shall have power and it shall be their duty: \* \* \* (5) To rent and furnish school houses. (6) To build or remove school houses, purchase and sell school lots, or other real estate, when the directors are directed by a vote of the district so to do. (7) To purchase personal property in the name of the district, and to receive, lease and hold for their district any or all real or personal property. \* \* \*

\* \* \* \* \*

#### TITLE VII.

§ 9. **School Meetings.**—SEC. 45. District school meetings, annual or special, shall be held at such time as may be designated in the notice therefor, \* \* \*

\* \* \* \* \*

#### TITLE X.

\* \* \* \* \*

§ 10. **Levy and Amount of Tax.**—SEC. 58. For the purpose of establishing and maintaining public schools, it shall be the duty of the county commissioners of each county to levy an annual tax, not less than three and not more than six mills on the dollar, on all taxable property within their respective counties, as shown by the assessment roll made by the county assessor for the same year, and to include the same in their warrant to the collector; and the said collector shall proceed to collect said tax in the same manner as the other taxes are collected, and the said money so collected shall be paid to the county treasurer, to be drawn in the manner prescribed in this act. \* \* \*

\* \* \* \* \*

#### TITLE XI.

§ 11. **Union District.**—SEC. 60. Whenever the inhabitants of two or more school districts may wish to unite for the purpose of establishing a graded school, the clerks of said districts shall, upon a written application of five voters of their respective districts, call a meeting of the voters of such districts at some convenient place by posting up written notices in like manner as provided for calling district meetings, and if a majority of the voters of each of such districts shall vote to unite for the purpose herein stated, they shall at their meeting, or at any adjourned meeting, elect three directors and a clerk for such union district. Single districts containing two hundred or more children entitled to draw public money, may in like manner organize a graded school district.

§ 12. **Powers of Union Directors.**—SEC. 61. The board of directors provided for in the preceding section shall, in all matters relating to graded schools, possess all the power, discharge all the duties and be governed by the laws herein provided for district directors, and they shall be elected in the same manner as provided in the preceding section.

\* \* \* \* \*

TITLE XII.

\* \* \* \* \*

§ 13. **Municipal Corporation: Levy of Special Tax.**—SEC. 66. The directors of any school district composed of any incorporated city or town shall, when in their opinion it is necessary, levy a special tax of not exceeding ten mills in any one year for the purpose of building school houses or purchasing school sites, which tax shall be levied and collected as provided in the general school law: *Provided*, That no special school tax shall be levied or assessed in any district until the same shall have been submitted to the qualified voters of such districts as required by law, and a majority of the votes cast shall be in favor of such tax: *Provided further*, That in making such levy the directors shall use as a basis for such levy the last assessment made by the county assessor for county purposes.

§ 14. **Municipal Corporation: Special Tax for Tuition.**—SEC. 67. The directors of such district may also have power to levy a special tax of not exceeding five mills in any one year, for tuition purposes in their district as provided by law: *Provided*, That such tax shall be levied in accordance with the provisions of section 66 of this title.

§ 15. **Power of School Directors of Municipal Corporations.**—SEC. 68. When two or more districts in any town or city are united by the provisions of this act, all the directors of the districts so united shall act as directors of the said new district, and shall have all the powers and authority conferred by the laws of this Territory upon school directors, and they may designate the person to act as clerk of said district until the next annual school meeting in said district, at which time there shall be three directors and one clerk [elected] for said district, in the manner provided by law, who shall hold their respective offices as provided for officers of new districts.

\* \* \* \* \*

TITLE XV.

§ 16. **Special Taxes: How Levied, etc.**—SEC. 80. The board of directors of any district may, when in their judgment it is advisable, submit to the qualified school electors of the district the question whether a tax shall be raised to furnish additional school facilities for said district or for building one or more school houses, or for removing, or building additions to one already built, or for the purchase of supplies, globes, maps, charts, books of reference and other appliances or apparatus for teaching, or for any or all of these purposes. Such election shall be called as provided by section 45 of this act, and it shall be in all other respects as nearly as practicable in conformity with the general election law. At such elections the ballots shall contain the words "Tax yes," or "Tax no." If the majority of the votes cast as [are] "Tax yes," the officers of election shall certify the fact to the district clerk, who shall proceed at once to copy from the assessment roll of the county the lists of property liable to taxation situated in or owned by residents of the district, and shall deliver the same to the board of directors, who may allow him a reasonable compensation therefor out of the proceeds of said tax; said compensation not to be more than four dollars per day. The directors shall, upon receiving the roll, deduct ten per cent. therefrom for anticipated delinquencies, and dividing the sum voted, together with the estimated cost of assessing and collecting added thereto, by the remainder of the roll, ascertain the rate per cent. required, and the rate ascertained (using the full per cent. on each one hundred dollars instead of the fraction) shall be and is hereby levied and assessed to, on or against the persons or property named or described in said roll, and it shall be a lien on all such property until the tax is paid, and if not paid within the time limited by the next section for its payment, shall be recovered by suit in the same manner and with the same costs as delinquent Territorial and county

taxes: *Provided*, That not more than two meetings shall be held in any one year under the provisions of this section: *Provided further*, That no special tax shall in any one year exceed ten mills on each dollar of taxable property in the district as appears by the last annual assessment.

§ 17. **Special Tax: Manner of Collection.**—SEC. 81. As soon as the rate of taxation has been determined, as provided in the last preceding section, the directors shall certify the same to the county auditor, who shall extend the same upon the general assessment roll of the county and certify the same to the county treasurer, who shall proceed to collect the tax in the same manner and at the same time, and with the same power and authority to enforce payment of the same, as in the case of county and Territorial taxes. The county treasurer shall place any tax so collected to the credit of the district to which it belongs, and shall receive a compensation for collecting the same, such sum not more than two per cent. of the tax collected, as may be allowed by the county commissioners; such compensation to be paid from the amount of said district tax so collected: *Provided*, That such commission shall not be paid when a county treasurer receives a salary in lieu of commissions.

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#### TITLE XVII.

\* \* \* \* \*

SEC. 94. All acts and parts of acts upon any subject matter contained in this act shall be and the same are hereby repealed: \* \* \*

\* \* \* \* \*

#### No. 705.—AN ACT TO PROVIDE FOR THE PAYMENT OF THE INDEBTEDNESS OF SCHOOL DISTRICTS IN CERTAIN CASES.<sup>1</sup>

§ 1. **Levy and Amount of Tax.**—*Be it enacted, etc.* SECTION 1. Wherever in this Territory, under and by virtue of a special law, the board of school directors of any school district have erected school houses and the said district is now indebted therefor, and no adequate provision in such law has been made for the payment of such indebtedness and the interest thereon, such board of school directors may, in their discretion, levy an annual tax upon the property in said district sufficient to pay one-tenth the principal of such indebtedness and all accrued [accrued] or accruing [accruing] interest thereon: *Provided*, That this act shall in no wise be construed to abridge or amend the common school law of Washington Territory in regard to the levy and collection of general or special taxes.

§ 2. **Manner of Levy, etc.**—SEC. 2. The taxes mentioned in the preceding section shall, in all respects, be levied and collected in the same manner as other school taxes, and the money raised thereby shall be placed in a special fund, to be called "Special school house fund," and shall be paid out upon warrant under the order and direction of the school directors of such district.

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<sup>1</sup> Approved Jan. 27, 1888. (See Eleventh Bien. Sess. 1887-88, p. 198.) In effect from date.

#### No. 706.—AN ACT AUTHORIZING INDEBTEDNESS TO BE CREATED BY COUNTIES, CITIES, SCHOOL DISTRICTS AND INCORPORATED TOWNS, AND IN RELATION THERETO, AND TO REPEAL AN ACT ENTITLED "AN ACT TO AMEND SECTION 2688 OF THE CODE OF WASHINGTON TERRITORY, APPROVED FEBRUARY 3, 1886."<sup>1</sup>

§ 1. **Limit of Indebtedness.**—*Be it enacted, etc.* SECTION 1. That counties, cities, school districts and incorporated towns or villages are

<sup>1</sup> Approved Feb. 1, 1888. (See Eleventh Bien. Sess. 1887-88, p. 74.) In effect from date.

hereby authorized to create indebtedness in any amount not to exceed four per centum on the value of the taxable property of such county, city, school district or incorporated town or village, to be ascertained by the last assessment.

§ 2. **Contracts Incurring Indebtedness, Within Limit, Valid.**—SEC. 2. That all existing indebtedness, and contracts incurring the same, of any county, city, school district or incorporated town or village not exceeding four per centum on the value of the taxable property of such county, city, school district or incorporated town or village, to be determined by the last assessment previous hereto [thereto] to [are] hereby legalize [legalized] and declare [declared] valid.

§ 3. **Purposes of Indebtedness.**—SEC. 3. That hereafter such indebtedness shall not be created in excess of one per centum upon the assessed valuation of property, except for the purposes of purchasing, paying for or constructing public buildings for the use of such counties, cities, school districts or incorporated towns or villages, or for the purpose of purchasing, paying for or constructing water works, or providing means of protection against fire, or providing cemeteries, parks, fair grounds, street railways, bridges, and for street improvements in any city or incorporated town or village, or for the purpose of lighting the same; or for the purpose of providing fair grounds for any county; and as to such, excess shall only be created when authorized by a vote of the qualified electors of such county, city, school district or incorporated town or village.

§ 4. **Question to be Submitted to Vote.**—SEC. 4. Whenever in the opinion of the county commissioners of any county the directors of any school district, the city council or board of aldermen or trustees of any city or incorporated town or village, the public good requires the incurring of any such indebtedness in excess of such one per centum for any of the foregoing authorized purposes, they shall estimate the cost thereof and submit the same to a vote of the qualified electors of such county, city, school district or incorporated town or village, at a general or special election, which election shall be held in the usual manner of general elections, after giving four weeks' notice by publication in some newspaper published in such county, city, school district or incorporated town or village, and of general circulation therein; and in case there should be no newspaper published in such county, city, school district or incorporated towns or villages, then in the nearest one published thereto, and of general circulation therein; and if a majority of the voters at such election favor such tax, the same shall be assessed and collected in the same manner that other taxes are collected.

§ 5. **Repealing Clause.**—SEC. 5. That the act entitled "An act to amend section 2683 of the Code of Washington Territory," approved February 8, 1886,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>2</sup> See No. 677, *supra*.

**No. 707.—AN ACT TO ORGANIZE SCHOOL DISTRICTS IN CITIES AND INCORPORATED TOWNS OF EIGHT THOUSAND INHABITANTS, AND TO PROVIDE FOR THE MAINTENANCE AND GOVERNMENT OF PUBLIC SCHOOLS THEREIN.<sup>1</sup>**

§ 1. **When May Organize—Boundaries.**—*Be it enacted, etc.* SECTION 1. Whenever the population of any city or incorporated town shall equal eight thousand inhabitants, as shown by any census of the school district, city, county or United States, said city shall constitute one school district,

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 21.) All inconsistent acts or parts of acts repealed. In effect from date.

and the boundaries and limits of such school district shall conform to the limits and boundaries of said incorporated city or town.

§ 2. **Change of Boundaries.**—SEC. 2. When the limits or boundaries of any incorporated city or town containing eight thousand inhabitants, which has been by this act constituted a school district, are changed according to law, then the boundaries and limits of the school district therein shall be deemed to have been changed also so as to conform to the new limits and boundaries of such incorporated city or town.

§ 3. **Board of Directors.**—SEC. 8. In all such districts as are created by this act, the board of directors shall consist of five members, \* \* \*

§ 4. **Duties of Board.**—SEC. 7. The duties of the board shall be:  
\* \* \* (5) To lease and build school houses, to buy and lease lands for school purposes, and to furnish their school houses with proper furniture, libraries, light, fuel, apparatus, etc., to sell and convey such lands and other property belonging to the district as may not, in their judgment, be required for school purposes, in manner as is now provided by law. \* \* \*

§ 5. **Power, Rate and Method of Taxation.**—SEC. 16. The board of directors of each school district created by this act shall have power to fix and determine the amount of taxes for general school purposes to be assessed within such district, and annually on or before the first Monday of July shall fix said tax at some rate not less than four mills nor exceeding eight mills, and shall, under their hands, certify to the board of county commissioners of the county in which such school district shall be, that they have fixed the amount for such year at such rate, and thereupon the county commissioners shall levy upon the assessed value of taxable property in said school district a tax for support of schools therein, at the rate so fixed, and shall levy no other tax for support of schools therein. The taxes raised for school purposes pursuant to the provisions of this act, within any school district created by this act, shall be collected, kept, disbursed and accounted for by the proper collecting, keeping and disbursing officers as a separate fund, exclusively applicable to school purposes in such district; and no taxes levied for school purposes outside of such school district subsequent to this act shall be applicable to school purposes in such district. The mode and manner and times for assessing and collecting taxes in the school districts created by this act shall be the same as now provided by law, subject to the provisions of this act, and nothing contained herein shall be deemed to affect the levying of special taxes for school purposes in the manner provided by law. \* \* \*

§ 6. **Saving Clause.**—SEC. 18. All acts and parts of acts now in force concerning the duties and powers of school directors and school clerks which do not conflict with the express provisions of this act, shall be considered to apply to the officers of such districts as are established by this act. \* \* \*

**No. 708.**—AN ACT TO AMEND SECTIONS 36, 67 AND 87 OF AN ACT ENTITLED "AN ACT TO AMEND THE COMMON SCHOOL LAW OF THE TERRITORY OF WASHINGTON," APPROVED FEBRUARY 4, 1886.<sup>1</sup>

§ 1. **Municipal Corporation: Power to Levy School Tax.**—*Be it enacted, etc.* SEC. 2. That section 67 of said act be<sup>2</sup> and the same is hereby

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Bien. Sess. 1887-88, p. 202.) Sections 36 and 87, referred to in the title, do not relate to matter within the scope of this book, and hence do not appear herein. In effect from date.

<sup>2</sup> See No. 704, § 14, *supra*.



amended to read as follows: Sec. 67. The directors of such district shall also have the power to levy a special tax of not exceeding five mills in any one year for tuition purposes in their district, as provided by law, without submitting the same to the qualified voters of such district: *Provided*, That in making such tax levy the directors shall use as a basis for such levy the last assessment made by the county assessor for county purposes.

\* \* \* \* \*

## TITLE XXI—TELEGRAPHS.

**No. 709.—AN ACT FOR THE REGULATION OF THE TELEGRAPH, AND TO SECURE SECRECY AND FIDELITY IN THE TRANSMISSION OF TELEGRAPHIC MESSAGES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Contracts by, Deemed to be in Writing.**—SEC. 11. Contracts made by telegraph shall be deemed to be contracts in writing; and all communications sent by telegraph, and signed by the person or persons sending the same, or by his or their authority, shall be held and deemed to be communications in writing.

§ 3. **Effect of Notice by.**—SEC. 12. Whenever any notice, information or intelligence, written or otherwise, is required to be given, the same may be given by telegraph: *Provided*, That the dispatch containing the same be delivered to the person entitled thereto, or to his agent or attorney. Notice by telegraph shall be deemed actual notice.

§ 4. **Powers of Attorney by.**—SEC. 13. Any power of attorney or other instrument in writing, duly proved or acknowledged, and certified so as to be entitled to record, may, together with the certificate of its proof or acknowledgment, be sent by telegraph, and telegraphic copy or duplicate thereof shall, *prima facie*, have the same force and effect in all respects, and may be admitted to record and recorded in the same manner and with like effect as the original.

\* \* \* \* \*

§ 5. **Effect of any Writing Transmitted by.**—SEC. 15. Except as hereinbefore otherwise provided, any instrument in writing, duly certified under his hand and official seal by a notary public, commissioner of deeds or clerk of a court of record to be genuine, within the personal knowledge of such officer, may, together with such certificate, be sent by telegraph, and the telegraphic copy thereof shall, *prima facie*, only have the same force, effect and validity in all respects whatsoever as the original, and the burden of proof shall rest with the party denying the genuineness or due execution of the original.

\* \* \* \* \*

§ 6. **Writs, etc.**—SEC. 17. Any writ or order in any civil suit or proceeding, and all the papers requiring service, may be transmitted by telegraph for service in any place, and the telegraphic copy of such writ or

<sup>1</sup> Approved Jan. 24, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 69.) In effect from date.

order or paper so transmitted may be served or executed by the officer or person to whom it is sent for that purpose, and returned by him, if any return be requisite, in the same manner and with the same force and effect in all respects as the original thereof might be, if delivered to him, and the officer or person serving or executing the same shall have the same authority and be subject to the same liabilities as if the said copy were the original. The original, when a writ of order, shall also be filed in the court from which it was issued, and a certified copy thereof shall be preserved in the telegraph office from which it was sent; in sending it, either the original or certified copy may be used by the operator for that purpose.

§ 7. **Description of Seal by.**—SEC. 18. Whenever any document to be sent by telegraph bears a seal, either private or official, it shall not be necessary for the operator, in sending the same, to telegraph a description of the seal, or any words or device thereon, but the same may be expressed in the telegraphic copy by the letters "L. S." or by the word "Seal;" and whenever any document bears a revenue stamp, it shall be sufficient to express the same in the telegraphic copy by the word "Stamp," without any other or further description thereof.

§ 8. **Words Defined.**—SEC. 21. The term "telegraphic copy," or "telegraphic duplicate," whenever used in this act, shall be construed to mean any copy of a message made or prepared for delivery at the office to which said message may have been sent by telegraph.

#### No. 710.—CHAPTER CLXXVI—TELEGRAPHIC MESSAGES.<sup>1</sup>

<sup>1</sup> (See Code 1881, p. 403, secs. 2352, 2353, 2354, 2356, 2358, 2359, 2362.) This No. is *verbatim* as No. 709, *supra*, after the enacting clause. For date in effect, repealing clause, etc., see Nos. 338, 339 and 340.

### TITLE XXII.—TIDE LANDS.

#### No. 711.—AN ACT TO ENCOURAGE THE CULTIVATION OF OYSTERS.<sup>1</sup>

§ 1. **Person Cultivating, May Acquire Ten Acres.**—SECTION 1. *Be it enacted, etc.,* That any person, being a citizen of this Territory, who has planted or who hereafter may plant oysters in any bay or arm of the sea where there are no natural beds of oysters, within or bordering upon this Territory, may acquire, by conforming to the requirements of this act, an exclusive right for such a purpose to that portion of such bay or arm of the sea as he shall so occupy, not exceeding for any one person an area of ten acres.<sup>2</sup>

§ 2. **How Benefits Obtained.**—SEC. 2. The person desiring the benefits of the preceding section shall cause the place or portion he desires to claim to be marked, so far as is practicable, with stakes or other artificial marks at the corners, with bearings to adjacent natural objects, and shall make, before some officer qualified to administer oaths, an affidavit that he has taken the premises so described for the purpose of planting

<sup>1</sup> Passed Jan. 16, 1861. (See Eighth Reg. Sess. 1860-61, p. 22.) In effect from date.

oysters, and that he has planted, or is about to plant, oysters thereon; that said premises are not upon and do not include any natural bed of oysters, and that the same are unoccupied except by himself, and if said premises shall have heretofore been taken and oysters planted thereon, then within three months after the passage of this act, and if they shall hereafter be taken, then within one month after taking the same, the person having taken or taking the premises shall cause his claim, with a description thereof, and affidavit as above required, to be recorded by the county recorder of the county in which they may be situated.

§ 3. **Extent of Title Acquired.**—SEC. 3. The premises so taken shall, for the purposes aforesaid, belong to the person taking them, his heirs and assigns, so long as he or they shall so occupy them, and no longer.

§ 4. **Same Person May Occupy Several Tracts.**—SEC. 4. The same person may claim and occupy more than one place: *Provided*, the premises so claimed by him do not in all occupy an area greater than ten acres: *And provided further*, That in those places used and occupied for the purpose of bedding marketable oysters, no one person shall occupy an area greater than one hundred by two hundred feet, or twenty thousand feet of superficial area.

§ 5. **Right Transferable.**—SEC. 5. Any person may transfer his right to any other person qualified to hold by signing the transfer upon record, in the presence of the auditor, or by a written transfer, witnessed and acknowledged in the same manner as is or may be required for deeds.

§ 6. **Recording Entry.**—SEC. 6. It shall be the duty of the county recorder of any county where claims and transfers, made under the provisions of this act, are presented to him for record or entry, to receive and record the same in a separate book provided for this purpose, upon being paid the same fees as are allowed in similar cases.

\* \* \* \* \*

#### No. 712.—AN ACT TO ENCOURAGE THE CULTIVATION OF OYSTERS.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 426.) This No. is *verbatim* as No. 711, *supra*. In effect from date.

#### No. 713.—AN ACT TO ENCOURAGE THE CULTIVATION OF OYSTERS.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> Approved Nov. 5, 1873. (See Fourth Bien. Sess. 1873, p. 463.) This No. is *verbatim* as No. 711, *supra*, except § 1 of said No. at 2 after "ten acres" read as follows: "*Provided*, That in the waters of Shoalwater Bay, in Pacific county, any person may hold twenty instead of ten acres: *Provided further*, That no person or persons shall locate or cause to be located oyster beds in any way interfering with the free use and privilege of any person or persons cutting timber or logging or conveying said logs to market;" and § 4 at 2 omit all after "ten acres" and instead read as follows: "*Provided*, That in Shoalwater Bay the several places may occupy an area of twenty acres." In effect from date.

#### No. 714.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ENCOURAGE THE CULTIVATION OF OYSTERS," APPROVED NOVEMBER 5, 1873.<sup>1</sup>

§ 1. **Persons Cultivating, May Acquire Twenty Acres.**—SECTION 1. *Be it enacted, etc.*, That any person being a citizen of this Territory who has planted, or who may hereafter plant, oysters in any bay or arm of the sea where there are no natural beds of oysters within or bordering upon this Territory, may acquire, by conforming to the requirements of this act, an exclusive right for such a purpose to that portion of such bay

<sup>1</sup> Approved Nov. 6, 1877. (See Sixth Bien. Sess. 1877, p. 306.) See also No. 711, *supra*. All conflicting acts "of a general nature" repealed. In effect from date.

or arm of the sea as he shall so occupy, not exceeding for any one person an area of more than twenty (20) acres: *Provided*, That no person or persons shall locate or cause to be located oyster beds in any way interfering with the free use and privilege of any person or persons cutting timber or logging or conveying said logs to market.

§ 2. **How Benefits Obtained.**—SEC. 2. The person desiring the benefits of the preceding section shall cause the place or portion he desires to claim to be marked so far as is practicable with stakes or other artificial marks at the corners, with bearings to adjacent natural objects, and shall make before some officer qualified to administer oaths an affidavit that he has taken the premises so described for the purpose of planting oysters, and that he has planted or is about to plant oysters thereon; that said premises are not upon and do not include any natural bed of oysters, and that the same are not occupied and claimed in accordance with law except by himself, and if said premises shall have heretofore been taken and oysters planted thereon then within three months after the passage of this act, and if they shall hereafter be taken, then within one month after taking the same the person having so taken or taking the said premises shall cause his claim, with a description thereof and affidavit as above required, to be recorded by the county auditor of the county in which they may be situated.

§ 3. **Extent of Title Acquired.**—SEC. 3. The premises so taken shall, for the purposes aforesaid, belong to the person taking them, his heirs and assigns, so long as he or they shall so occupy them and no longer.

§ 4. **Same Person May Claim Several Tracts.**—SEC. 4. The same person may claim and occupy more than one place: *Provided*, The premises so claimed by him do not in all occupy an area greater than twenty (20) acres: *And provided further*, That in those places used and occupied for the purpose of bedding marketable oysters no one person shall occupy an area greater than one hundred by two hundred feet or twenty thousand feet of superficial area.

§ 5. **Right Transferable.**—SEC. 5. Any person may transfer his right to any other person qualified to hold by signing the transfer upon record in the presence of the auditor, or by a written transfer witnessed and acknowledged in the same manner as is or may be required for deeds.

§ 6. **Recording Entry.**—SEC. 6. It shall be the duty of the county auditor of any county where claims and transfers made under the provisions of this act are presented to him for record or entry, to receive and record the same in a separate book provided for this purpose, upon being paid the same fees as are allowed in similar cases.

\* \* \* \* \*

§ 7. **In What Case no Title Acquired.**—SEC. 11. That section three (3) of this act shall not apply to persons taking oysters from private beds over which they have control and for purposes of cultivation.

\* \* \* \* \*

**No. 715.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO ENCOURAGE THE CULTIVATION OF OYSTERS," APPROVED NOVEMBER 6, 1877.<sup>1</sup>**

§ 1. **Exclusive Right of Gathering.**—SECTION 1. *Be it enacted, etc.*, That an act entitled "An act to amend an act entitled an act to encourage the cultivation of oysters," approved November 6, 1877,<sup>2</sup> be and the same

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Blen. Sess. 1879, p. 118.) All conflicting acts and parts of acts "of a general nature" repealed. In effect from date.

<sup>2</sup> See No. 714, *supra*.

is hereby amended as follows: \* \* \* \* Sec. 5. That any person or persons, being a citizen or citizens of the United States, who shall discover any bed or beds of oysters in any bay or arm of the sea bordering upon this Territory, that has not been before discovered, shall, by right of said discovery, be entitled to the exclusive right or privilege of gathering or dredging oysters on said bed or beds for the term of five years. The person, or persons, making such discovery, who desires to avail himself of the rights and privileges hereby granted, shall be required to designate the place and area of the bed or beds so discovered, with the stakes or other artificial marks, and shall make affidavit before the county auditor of the county in which such discovery has been made that he located the premises so discovered, accompanied by a description and diagram of the same, which shall be filed in the office of said county auditor: *Provided*, That the restriction and protection of the discoverers shall be ten acres.

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\* See No. 716, *infra*.

#### No. 716.—TO ENCOURAGE THE CULTIVATION OF OYSTERS.<sup>1</sup>

\* \* \* \* \*

<sup>1</sup> (See Code 1881, p. 216, secs. 1189 to 1193, inclusive, 1198.) This No. is *verbatim* as No. 714, except § 7 of said No. is omitted, and all of § 1 of No. 715 after \* appears in this No.



## DIVISION II.—SPECIAL LAWS.

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### TITLE I.—CORPORATIONS: MUNICIPAL.

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#### CHAPTER I.—CITY OF AINSWORTH.

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#### **No. 717.—AN ACT TO INCORPORATE THE CITY OF AINSWORTH, AND TO PARTICULARLY DEFINE THE POWERS THEREOF.<sup>1</sup>**

##### CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the portion of land lying and being situated in Washington Territory, and more particularly described, to wit: Beginning in mid-channel of the Columbia river at a point south of where the west boundary of section thirty-three (33), township nine (9), north of range thirty (30), east, Willamette meridian, intersects the said river; thence running north to the northwest corner of said section thirty-three (33); thence east to the mid-channel of the Snake river; thence down said Snake river to the mid-channel of the said Columbia river; thence up said Columbia river to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants within the city of Ainsworth are hereby constituted and declared to be a municipal corporation by the name and style of the "City of Ainsworth," and by that name shall have perpetual succession, and may sue or be sued, plead or be impleaded in all courts of justice, contract and be contracted with, and have and use a common seal and alter the same at pleasure.

##### CHAPTER II.

§ 3. **General Powers of Taxation.**—SEC. 3. The city of Ainsworth has power to assess, levy and collect taxes, for general municipal purposes, not to exceed one-half per centum per annum upon all property, both real and personal, within the city which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided, but all taxes for general and special municipal purposes, exclusive of assessments for improvements, as hereinafter provided in sections 5, 7, 8 and 10 of this act, shall not exceed in any one year one and one-half per centum on the property assessed.

§ 4. **Protection from Fire: Taxation for.**—SEC. 4. The city of Ainsworth shall have power to make regulations for prevention of accidents by fire, to organize and establish fire departments, and shall have control thereof and ordain rules for government of the same; to provide fire engines and other apparatus, and a sufficient supply of water, and to levy and collect special taxes for these purposes, not to exceed in any year three-tenths of one per centum upon the taxable property within the city;     \*     \*     \*

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<sup>1</sup>Approved Nov. 28, 1883. (See Ninth Blen. Sess. 1883, p. 214.) In effect from date.

**§ 5. Appropriation of Private Property for Streets, etc.: Taxation for—Conveyances.**—SEC. 5. The city of Ainsworth has power to purchase or condemn and enter upon and take any lands within or without its territorial limits, for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for work houses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes, not exceeding one-fifth of one per cent. in any one year. The city shall have entire control of such buildings and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power, in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city on the public existing prior to such conveyance; but when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

**§ 6. Lighting Streets, etc.: Taxation for.**—SEC. 6. The city of Ainsworth has power to provide for the lighting of the streets and furnishing the city with gas or lights, and for the erection or construction of such works as may be necessary and convenient therefor, and has power to levy and collect for these objects a special tax not exceeding one-fifth of one per centum per annum upon the taxable property within the limits of the city for the benefit of such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes may be assessed upon and collected from property within said limits, or the expenses may be paid out of the general fund.

**§ 7. Opening, Improving, etc., Streets, etc.: Taxation for.**—SEC. 7. The city of Ainsworth shall have power to provide for clearing, opening, graveling, improving and repairing of streets and highways and alleys, and build bridges, and for the prevention and removal of all obstructions therefrom, or from any cross or sidewalk; also to regulate cellarways and cellar lights or sidewalks within the city, and to provide for clearing the streets; also, for constructing sewers and cleaning and repairing the same; and have power to assess, levy and collect each year a road poll tax of not less than four nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except persons that are a public charge; also, a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the city, which taxes shall be expended for the purposes specified in this section; and there shall not be levied or collected by the county of Whitman or the officers thereof any road tax or road poll tax upon the property or inhabitants within said city.

**§ 8. Constructing, etc., Sidewalks, and Paving, etc., Streets, etc.: Taxation for.**—SEC. 8. The city of Ainsworth shall have power to construct and repair sidewalks, and to curb, pave, grade, macadamize and gutter any street[s] or streets, highway or highways, alley or alleys therein, or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of lands fronting on such street or streets, highway or highways, alley or alleys, or any part thereof, sufficient to pay the expenses of such improvement, and for such purpose may create and establish assessment districts, and may create and establish such assessment districts for the purpose of purchasing or appropriating any land or constructing any building or bridge and maintaining the same, or improving any park or square, or opening any street, or fill-

ing any place where stagnant water accumulates, or to abate any nuisance.

\* \* \* \* \*

**§ 9. Establishing Grade of Streets, etc.: Appropriation of Private Property for—Street Railway and Other Companies.—**SEC. 10. The city of Ainsworth shall have power to provide for the survey of the blocks and streets therein and for making and establishing boundary lines of such blocks and streets, and to establish the grades of all streets, and to lay off, widen, straighten, name, change, extend, vacate and establish streets, highways and alleys, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvement authorized by this section, sufficient to make compensation for all property condemned or damaged, and to authorize or forbid the location and laying down of tracks for railways and street railways, telegraph and telephone appliances on all streets, alleys and public places, and no railway track can thus be located and laid down until after the injury to property abutting upon the street, alley or public place upon which such track is proposed to be located and laid down has been ascertained and compensated in the manner provided for compensation of injuries arising from re-grade of streets in section 124 of this act.

**§ 10. Erection, etc., of Water Works.—**SEC. 11. The city of Ainsworth shall have power to erect and maintain water works, or to authorize the erection of the same, for the purpose of furnishing the city with a sufficient supply of water; but no such works shall be erected by the city until a majority of the voters of the city at a general or special election shall vote for the same.

**§ 11. Extra Territorial Jurisdiction.—**SEC. 12. The city of Ainsworth shall have power to construct, or authorize the construction of, such water works without the limits of the city, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works, and all reservoirs, streams, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken for five miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect.

**§ 12. Appropriation of Private Property for Water Works.—**SEC. 13. Said city is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works, and if it shall authorize the construction and operation thereof by individuals or private corporations, it may confer by ordinance upon such person or persons or corporation the said power to take and appropriate private property for such purpose.

**§ 13. Purchase and Maintenance of Water Works: Taxation for.—**SEC. 14. The city of Ainsworth shall have power to purchase water works already erected, and may mortgage or hypothecate the same to secure to the person or persons from whom the same may be purchased the payment of the purchase price thereof; said city shall have power to regulate and sell the water thus brought therein, and the moneys arising therefrom shall constitute a fund to be used to defray the expenses of operating the same and to pay the purchase price thereof; and said city may levy and collect a special tax each year until the necessity therefor ceases to exist, not to exceed two-tenths of one per centum; *Provided, however,* No such tax shall be levied or collected until the question has been submitted to the qualified electors of said city, and a majority thereof, at an annual election, shall favor the same.

\* \* \* \* \*

§ 14. **Incidental Powers.**—SEC. 23. The city of Ainsworth shall have power to adopt proper ordinances for the government of the city, and to carry into effect the power given by this act \* \* \*

CHAPTER III.

§ 15. **Government and Officers.**—SEC. 25. The power and authority hereby given to the city of Ainsworth by this act shall be vested in a mayor and council, together with such other officers as are in this act mentioned, or may be created under its authority.

§ 16. **Election of Assessor.**—SEC. 28. There shall be elected \* \* \* clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner, assessor, \* \* \* and such other officers as may become necessary for the due execution of the powers herein conferred. \* \* \*

CHAPTER VI.

§ 17. **Powers of the Council.**—SEC. 44. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

CHAPTER VIII.

§ 18. **Duties of Assessor.**—SEC. 65. The assessor must annually make a correct list of all property subject to taxation by the city, with the valuation thereof.

§ 19. **Manner of Assessment.**—SEC. 67. The assessment of property shall be made in the manner prescribed by law for assessing property for Territorial and county taxes. The form of the assessment roll, the rule for ascertaining the ownership of property, and in whose name it may be assessed, the time of making such assessment, the time for the return thereof, and the time at which application may be made for the revision thereof, must be prescribed by ordinance.

§ 20. **Assessment is Basis for Taxation.**—SEC. 68. The assessor shall list the lands and improvements and their valuations, and the personal property, separately, and shall certify and return the lists to the clerk. After revision the assessment thus made shall be the basis for all taxation for the fiscal year.

CHAPTER IX.

§ 21. **Ordinances.**—SEC. 75. The style of every ordinance shall be, "The city of Ainsworth does ordain as follows:" No ordinance shall contain more than one subject, which shall be clearly expressed in the title, and when only a section of an ordinance is repealed the repealing ordinance shall specify particularly what section is to be repealed, by repeating it; but when the whole ordinance is to be repealed, it shall be sufficient to name it by title and number.

CHAPTER X.

§ 22. **Notice of Intention to Improve, etc.: Substance and Manner of.**—SEC. 78. The city council, whenever it deems it expedient to establish or alter the grade of any street or alley of the city, or to make any improvements thereof, as authorized by sections five, six, seven, eight, nine

and ten of this act, shall cause a survey, diagram and estimate of the cost thereof to be made by the city surveyor; and the said survey, diagram and estimate shall be filed in the office of the city clerk for the inspection of all persons interested therein; and a notice of intention to grade, pave or otherwise improve said street or alley, and the filing of such survey, diagram and estimate, shall be given by two weekly publications in the paper doing the city printing. Such notice must specify the street or part thereof to be improved, or of which the grade is to be altered, and the kind of improvement proposed to be made.

**§ 23. Effect of Remonstrance.**—SEC. 79. If within ten days from the final publication, two-thirds in number of the persons<sup>2</sup> owning property on said street or alley, and representing one-half of the property in said street or alley, shall file with the city clerk a petition remonstrating against said improvement, grade or alteration, the same shall not be further proceeded with.

**§ 24. Effect of Failure to Remonstrate.**—SEC. 80. If no such remonstrance be made and filed as provided in the last section, the council, at its earliest convenience thereafter, and within six months from the publication of such notice, may establish the proposed grade or make the proposed improvement.

**§ 25. Manner of Appraisement and Assessment of Abutting Property.**—SEC. 81. In all cases when the council shall, by ordinance, order the improvement of any street or alley, or the alteration of the grade of any street, and the cost thereof has been duly estimated as herein provided, they shall, before proceeding with the execution of the work, cause an appraisement of the lots and land abutting on said street adjacent to said improvement and assessable for the costs thereof, as follows: An assessor shall be appointed and sworn to appraise all lots or parts of lots or lands, irrespective of the improvements or structures thereon, and the whole cost of said grade, planking, graveling or other improvement, shall be assessed *pro rata* on said lots or parts thereof, or lands as aforesaid, according to the assessed value thereof, which apportionment shall be made by the city council, by ordinance, and a tabulated statement thereof shall be made by the city clerk and filed in his office for the information of all persons concerned, and a notice thereof published in the paper doing the city printing for two weeks. Such statement shall show the name of the owner of each lot, if known; the number and frontage of each lot, part of a lot or other land; the number of the block, if numbered, and the value of such lots or parts, respectively.

\* \* \* \* \*

**§ 26. Lien of Taxes for Improvement: How Acquired and Released.**—SEC. 83. When the tabulated statement, as provided in the preceding section, has been approved by the council, the same shall be recorded in the office of the auditor and recorder of Whitman county, in the book of liens on real property, and shall be and remain a lien on the lots or parts of lots or lands described therein for the several sums assessed thereon, respectively; and as fast as the said several assessments are paid, the city clerk is authorized and required to enter on the said county record of said liens a release thereof, which shall be made in the margin of said record • opposite the lot or land so released, and the said land shall be henceforth discharged from said lien.

**§ 27. Collection of Such Taxes.**—SEC. 84. When the city council shall have duly approved of said assessment and apportioned the cost of said improvement, they shall, by ordinance, establish the same, and require the payment of said assessment within ten days from the approval thereof, and shall give notice in the paper doing the city printing, that said assessment is due and payable to the city treasurer as aforesaid.

<sup>2</sup> See No. 812, *infra*.



The city clerk shall furthermore make out and deliver to the treasurer a copy of said appraisal and assessment, who shall proceed to collect the same in the same manner as other city taxes, except as is herein otherwise directed.

**§ 28. Warrant for Collection.**—SEC. 85. If within ten days after the publication of said last named notice, the sum assessed upon any lot or part thereof is not wholly paid to the city treasurer, the city council may at any time thereafter order a warrant for the collection of the same to be issued by the city clerk directed to the city marshal.

**§ 29. What Such Warrant Shall Require.**—SEC. 86. Such warrant must require the person to whom it is directed to forthwith levy upon the lot or parts thereof upon which the assessment is unpaid, and sell the same in the manner provided by law for selling real estate for delinquent taxes, and return the proceeds of such sale, less his fees, to the city treasurer, and the warrant to the auditor with his doings endorsed thereon, together with the receipt of the city treasurer for the proceeds of such sale.

**§ 30. Tax Deed—Limitation of Redemption.**—SEC. 87. The person executing such warrant shall immediately make a deed for the property sold therein to the purchaser, stating therein that the same is made subject to redemption as hereinafter provided. Within three years from the date of sale the owner or his successor in interest, or any person having a lien by judgment, decree or mortgage on the property, or any part thereof, separately sold,<sup>a</sup> may redeem the same upon the terms and conditions provided in the next section.

**§ 31. Manner of Redemption.**—SEC. 88. Redemption is made by the payment of the purchase money and twenty-five per cent. additional, together with the interest upon the purchase money from the date of the sale to the time of payment at legal rate, and the amount of any tax which the purchaser may have paid upon the property.

**§ 32. Effect of Redemption.**—SEC. 89. A redemption discharges the property from the effects of the sale, and from the assessment. If made by the owner or his successor in interest, the estate in the property is thereby restored to such owner or successor in interest; but if made by a lien creditor, the amount so paid shall form part of his lien and bear like interest.

**§ 33. Effect of Sale.**—SEC. 90. A sale of real property under the provisions of this chapter conveys to the purchaser (subject to redemption) all the estate or interest therein of the owner, whether known or unknown.

**§ 34. Fees, etc., to be Collected from Property Assessed.**—SEC. 91. The fees and percentage to be allowed to the person for making the sale of property for delinquent assessment for street improvements, as provided in this chapter, shall be fixed by the council by ordinance, and shall be added to and form a part of such assessment from the time the same becomes delinquent, and shall be collected from the property assessed in the same manner as the original assessment, and in no instance shall the city be liable for such percentage and costs and fees.

**§ 35. Rate of Interest on Delinquent Taxes.**—SEC. 92. All money paid or collected upon assessment for the improvement of streets or alleys shall be kept as a separate fund, and in no wise used for any other purpose whatever; all money so assessed, from the time of being entered in the docket of liens, shall bear interest at the legal rate until paid or collected.

**§ 36. If Sum Assessed Insufficient to Defray Cost, Deficiency Shall be Added.** SEC. 93. If, upon the completion of any improvement of any

<sup>a</sup> See No. 812, *infra*.

street or alley, it is found that the sum assessed therefor is insufficient to defray the cost thereof, the city council must ascertain the deficiency and declare the same by ordinance; and when so declared the city clerk shall give notice thereof, and such deficiency shall be added to the original assessment and collected in the same manner; and when such assessment shall be in excess of the sum required for said improvement, the same shall be repaid to the parties owning the property or their representatives.

§ 37. **Assessment Districts.**—SEC. 94. For the purpose of making the appraisement and assessment specified in section 81 of this chapter, the city council may establish assessment districts, consisting of the whole of any street or streets, or parts thereof, benefited by said improvements.

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§ 38. **What Deed Shall State.**—SEC. 96. The deed to the purchaser must express the true consideration therefor, and the return of the person executing the warrant must specify the amount for which the lot was sold and the name of the purchaser.

#### CHAPTER XI.

§ 39. **Collection of Delinquent Taxes.**—SEC. 97. The assessor shall annually make out a list of the names of all persons within the city liable to pay a road poll tax, as provided in section seven of this act; and, at the time of making said list, the assessor shall demand from each person the road poll tax levied for said year by the council, and if said poll tax is then paid, the assessor shall mark the same "Paid" on said list, and give to the person so paying a receipt therefor, and the said list shall be returned to the city council with the return of his assessment of property, and he shall pay over to the city treasurer the money received by him, and file his receipt therefor with the city clerk. The said poll tax list shall be given to the city treasurer, and he shall at once proceed to collect the unpaid road poll tax thereon from the persons named on said list. The treasurer shall also place upon said list the names of all persons found within the city liable to pay such poll tax who shall fail to produce a receipt for the payment of a road poll tax for the current year. He shall demand the amount due from each person named upon the list, and shall proceed at once to collect the same from any person who shall fail to pay the same when so demanded, by levy and sale of the property, real or personal, of such person so delinquent, or sufficient thereof for that purpose, and to pay the expenses of the levy and sale: \* \* \*

§ 40. **Rate of Interest on Taxes.**—SEC. 98. Whenever any general or special tax has been levied, as provided and authorized by chapter two of this charter, every part thereof shall bear interest at the legal rate from the time it is due and payable until paid or collected, and shall be a lien from said date upon any real property owned by the party assessed.

§ 41. **When Taxes Become Delinquent.**—SEC. 99. The council must provide by ordinance within what time all taxes levied, as provided and authorized by the provisions of chapter two of this act, may be paid to the treasurer, and all taxes not paid to the treasurer within such time are thereafter delinquent taxes and shall be collected as such, and ten per cent. in addition, and interest at ten per cent. per annum.

§ 42. **Return of Roll.**—SEC. 100. Within five days from the expiration of the time limited for paying taxes to the treasurer, the treasurer shall<sup>4</sup> return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

§ 43. **Warrant for Collection: Substance of.**—SEC. 101. The council must thereafter order the city clerk to deliver the tax roll to the city

<sup>4</sup> See No. 812, *infra*.

marshal and issue and annex thereto a warrant, under the seal of the city, and directed to the city marshal, commanding him to proceed and forthwith to collect the delinquent taxes upon said roll in the manner provided by law, and pay the same to the treasurer, less his fees and costs of collecting, and return the warrant with his doings thereunder to the city clerk, together with the receipt of the treasurer for all moneys collected thereby and paid to the treasurer.

**§ 44. Force and Effect of Warrant.**—SEC. 102. Such warrant for the purpose of collecting such delinquent taxes shall be deemed an execution against property, and shall have the force and effect thereof against any person or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner except as in this chapter otherwise provided.

**§ 45. In What Case Real Property to be Levied on.**—SEC. 103. If personal property be not<sup>s</sup> found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it must be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officers, and all expenses of sale and of executing the warrant.

**§ 46. How Levied Against Unknown Owner.**—SEC. 104. In case of delinquent tax levied upon real property in the name of an unknown owner, the warrant shall be executed by levying upon each lot, or part thereof, of such property for the tax levied thereon, and selling it separately.

**§ 47. Collection of Taxes Heretofore Levied.**—SEC. 105. All taxes heretofore levied by the city of Ainsworth and remaining unpaid or delinquent may, by order of the council, be collected from the person, firm or corporation, whether known or unknown, against whom the same is charged or levied, by warrant, in the manner and with the effect provided in this chapter for the collection of delinquent taxes.

**§ 48. Tax Deed: What Shall State.**—SEC. 106. When real property is sold for delinquent taxes, the person executing the warrant must immediately make a deed for such property to the purchaser, stating therein that the same is made subject to redemption as provided by law, and such deed shall have the effect provided in chapter nine of this act.

**§ 49. Redemption: Manner and Limitation of.**—SEC. 107. Real property sold for taxes, as provided in this chapter, may be redeemed by the owner or his successor in interest, or any person having a lien by judgment, decree or mortgage on such property or any part thereof, separately sold, within three years from the date of the deed therefor, and upon the terms and conditions and with the effect provided in chapter nine of this act in the case of sale of real property for delinquent assessments for the improvement of streets; and such delinquent tax may be paid by such lien creditors in the same manner and with like effect as a delinquent assessment, as provided in sections eighty-eight and eighty-nine of this act.

\* \* \* \* \*

**§ 50. Return of Warrant, etc.**—SEC. 110. The council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for the collection of delinquent taxes must be made on the warrant and collected as a part of the tax. The council may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the treasury of the city.

**§ 51. What Property is Subject to Levy.**—SEC. 111. All property subject to levy on execution is subject to levy upon a warrant for the

<sup>s</sup> See No. 812, *infra*.

collection of delinquent taxes, and also all property subject to assessment for taxes, as provided by this charter, whether the same be exempt or not.  
\* \* \*

#### CHAPTER XII.

\* \* \* \* \*  
§ 52. **Actions Concerning Assessments, etc.: Discretion of Council.**—SEC. 117. In any action, suit or proceeding in any court, concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax, or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith, shall be presumed to be regular and duly taken until the contrary is shown; and when any proceeding, matter or thing is, by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.  
\* \* \*

§ 53. **What Shall Not be Necessary to Recite in Deed.**—SEC. 119. In making a deed for real property, sold for delinquent taxes, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city for a delinquent tax, and the amount thereof, together with the date of the sale and the amount paid therefor by the purchaser. The style of the warrant for the collection of delinquent taxes shall be in the name of such city.  
\* \* \*

§ 54. **Assessment of Acreage.**—SEC. 121. All real property within the limits of the city of Ainsworth not laid off in blocks at the time of making any assessment authorized by this act, must be assessed at the cash value per acre or fractional part<sup>6</sup> thereof, as the case may be.  
\* \* \*

§ 55. **Petition for Improvement.**—SEC. 123. No park, market, square, street, alleyway or bridge shall be opened, established, extended or widened at the expense of the taxpayers of any assessment district except upon a petition to the city council signed by a majority of the resident owners of real estate within such district, and no street, alley, public square or park shall be vacated except upon a petition to that effect from a majority of the real estate owners in the ward wherein it is situated is made to the council, or when there is no such petition five-sevenths of the council vote therefor by yeas and nays.

§ 56. **Change of Grade, etc., of Street: Appropriation of Private Property for.**—SEC. 124. When the grade or boundaries of any street has been once legally established, such grade or boundary shall not be changed without indemnifying each person injured by such change, and the amount of compensation shall be determined as in other cases when private property is taken for the use of the city; and the city of Ainsworth may exercise the right of eminent domain to take any private property for any use of the city embraced within any of the objects or purposes of this act, and the payment therefor shall be paid out of the proper general or special funds of the whole city, or from a fund raised from assessments and taxation of the assessment district wherein such property is taken.

§ 57. **Regulation and Control of Additions to the City.**—SEC. 125. The city of Ainsworth may regulate and provide as to the manner in which all additions to the city shall be subdivided into lots, blocks, streets and alleys, and the width, distance apart and direction of each street and alley, and the manner in which a plat shall be made thereof, and where

<sup>6</sup> See No. 812, *infra*.

filed, and the kind of monuments in all parts of the city, and place and manner of erection and maintenance thereof to prevent mistakes and confusion of boundaries; and may cause an official map of said city to be made and kept for public inspection, which plat, certified by the city surveyor, shall be *prima facie* evidence that the lines as they thereon appear are correct; and all surveys made by the city surveyor whatever, at the instance and expense of the city or private parties, shall be official surveys, and a minute record thereof shall be kept by the city surveyor as a part of his official records, and shall be *prima facie* evidence of their own correctness; and the city has power to enforce this ordinance, and the selling of any real property not subdivided as aforesaid, and plat made and filed as above provided, and to compel the establishment and maintenance of such monuments and to fine or imprison, or both, for a violation thereof; and when the boundary or existence of any public street, alley, easement or square is in doubt, and the land claimed by a private party, the city may file a bill in equity to determine the right thereto.

§ 58. **Compensation for Property Appropriated: How Determined.**

—SEC. 126. In all cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

\* \* \* \* \*

**No. 718.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF AINSWORTH, AND TO PARTICULARLY DEFINE THE POWERS THEREOF."**<sup>1</sup>

§ 1. *Be it enacted, etc.* SECTION 1. That the act entitled "An act to incorporate the city of Ainsworth and to particularly define the powers thereof,"<sup>2</sup> is hereby repealed.

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<sup>1</sup> Approved Jan. 19, 1886. (See Tenth Bien. Sess. 1885-86, p. 424.) In effect from date.

<sup>2</sup> See No. 717, *supra*.

CHAPTER II.—TOWN OF CENTRALIA.

**No. 719.—AN ACT TO INCORPORATE THE TOWN OF CENTRALIA.**<sup>1</sup>

ARTICLE I.

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. That the town of Centralia, in said Territory, shall be bounded as follows, to wit: Commencing at the intersection of the north side of Maple street with the section line; thence westerly along the north side of Maple street to a point opposite the west side of Pearl street; thence westerly to the west side of Oak street; thence southerly along the west side of Oak street to the south side of the county road; thence easterly along the south side of the county road to the south line of Locust street; thence southerly to the south line of Plum street; thence easterly to the west line of Silver street;

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 444.) In effect from date.



thence south along the west line of Silver street to the south line of Washington street; thence easterly along the south line of Washington street to a point opposite on the section line; thence north along the section line to place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the said town of Centralia shall be and are hereby constituted a body politic and corporate, by the name and style of the town of Centralia, and by that name they and their successors shall be known in law and have perpetual succession, sue and be sued, plead and be impleaded in all courts whatsoever; may purchase, hold and receive property, both real and personal, within said town, for public buildings, public works and town improvements; and may lease, sell or dispose of the same for the benefit of said town.

#### ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. That for the government of said town of Centralia \* \* \* there shall hereafter be annually elected, \* \* \* the following officers: A board of trustees, consisting of five members, one clerk and one town marshal, who shall hold their office for one year and until their successors shall be duly elected and qualified. \* \* \*

\* \* \* \* \*

#### ARTICLE IV.

\* \* \* \* \*

§ 4. **Powers of Taxation, etc.**—SEC. 3. The said board of trustees shall have full power and authority—(1) To make all needful by-laws and regulations. (2) To levy taxes for municipal purposes, not to exceed four mills on the dollar per annum upon all taxable property in said town, as is shown by the assessment made for territorial and county purposes: \* \* \*

\* \* \* \* \*

§ 5. **Board of Trustees to Have Control of Streets, etc.**—SEC. 5. The road, streets and alleys within the town shall be under the exclusive control of the board of trustees, who shall make all needful rules in regard to improvement, building, repairing, grading and clearing the walks, streets and alleys in said town.

§ 6. **Construction of Sidewalks: Assessment and Collection of Expenses.**—SEC. 6. The board of trustees shall have the power to order any property owner, or the owner of any property within the corporation, to repair or construct sidewalks on any street adjoining his or her property: *Provided*, A majority of the property owners on such street shall petition for the same; and in case said property owner shall refuse or neglect to repair or construct said sidewalks as ordered by said trustees, the same shall be repaired or constructed by said board of trustees, and said adjoining property shall be liable for all labor performed and material furnished in said improvement, and the same may be collected by civil action in the name of the town of Centralia, and in such proceedings it shall be sufficient to declare generally for work and labor performed and materials furnished on the particular lot, parcel of land and street; if the court trying the same shall be satisfied that the work has been done or material furnished, which, according to the true intent and meaning of this act, would be properly chargeable to the owner of the lot of land through or by which said sidewalks so repaired or constructed may pass, judgment shall be rendered for the value of the work performed and the material furnished, together with the costs of such action, on such lots of land, notwithstanding any informality or defects in the proceedings of the officers of said town of Centralia.

\* \* \* \* \*

CHAPTER III.—CITY OF CHEHALIS.

No. 720.—AN ACT TO INCORPORATE THE CITY OF CHEHALIS.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the corporate limits of the city of Chehalis and the boundaries thereof shall be as follows, to wit: Beginning at the quarter section corner between sections 31 and 32, township 14, north of range 2 west; thence south  $14\frac{1}{2}$  chains; thence south 49 degrees east,  $30\frac{17}{100}$  chains; thence north 41 degrees east, 55 chains; thence north 43 degrees west,  $80\frac{1}{2}$  chains, thence south 41 degrees west,  $3\frac{25}{100}$  chains; thence west  $24\frac{55}{100}$  chains; thence south  $6\frac{1}{2}$  chains to northeast corner of southwest quarter of southeast quarter of section 30, township 14, north of range 2 west; thence west 20 chains; thence south 20 chains to the quarter section corner between sections 30 and 31, township 14, north of range 2 west; thence south 70 degrees west,  $12\frac{70}{100}$  chains; thence south 39 degrees east,  $6\frac{15}{100}$  chains; thence south 11 degrees west,  $3\frac{50}{100}$  chains; thence 72 degrees east,  $3\frac{20}{100}$  chains; thence north  $2\frac{55}{100}$  chains; thence south  $51\frac{1}{2}$  degrees east,  $4\frac{61}{100}$  chains; thence north 30 degrees east,  $6\frac{66}{100}$  chains; thence south  $86\frac{1}{2}$  degrees east,  $20\frac{20}{100}$  chains; thence south  $31\frac{1}{2}$  degrees east,  $33\frac{1}{2}$  chains, to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Chehalis, within the limits above described, shall be and they are hereby constituted a body politic and corporate in fact and in law, by the name and style of the "City of Chehalis," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all suits and actions whatsoever; may purchase, acquire receive and hold property—real, personal and mixed—for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold property beyond the limits of the city, to be used for burial purposes; also for the establishment of hospitals for the reception of persons affected with contagious diseases; also for work houses or houses of correction; also for the erection of water works to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

ARTICLE II.

§ 3. **Government.**—SECTION 1. The government of said city shall be vested in a mayor, a common council, consisting of seven members, who shall be elected by the qualified voters of said city, and shall hold their offices until ten days after the next annual election, and until their successors shall be elected and qualified.

§ 4. **Officers.**—SEC. 2. There shall be a city treasurer, city marshal and city clerk. \* \* \*

\* \* \* \* \*

ARTICLE III.

\* \* \* \* \*

§ 5. **Assessment and Collection of Taxes—Authentication of Public Acts.**—SEC. 2. The common council shall appoint one of the justices of the peace in said city of Chehalis, whose duties shall be as follows: He shall have jurisdiction over all violations of city ordinances; \* \* \* He shall, as *ex-officio* assessor, within such time as shall be by ordinance

<sup>1</sup> Approved Nov. 23, 1883. (See Ninth Bien. Sess. 1883, p. 234.) In effect from date.

provided, make out and return to the common council a correct list of all the taxable property within the limits of the city, with the valuation thereof and the name of the person liable to be taxed therefor. The mode of making out such list, ascertaining the value of the property and collecting the taxes, shall, as nearly as may be practicable, be the same as that prescribed by law for assessing and collecting Territorial and county taxes, and he shall, as such assessor, discharge such other duties as may by ordinance be prescribed. He shall, as *ex-officio* clerk, be the custodian of the records and the seal of the city, and shall authenticate its public acts. He shall attend the meetings of the common council, and shall keep a correct journal of the proceedings thereof, and shall generally do and perform such duties as may by ordinance be provided.

\* \* \* \* \*

#### ARTICLE VI.

§ 6. **Powers of the Council.**—SECTION 1. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or this Territory. (2) To levy and collect taxes not exceeding one-half of one per cent. per annum upon all property made taxable by law for county and Territorial purposes. \* \* \* (14) To remove all obstructions from the streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repairing of the same, as well as sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises to clean and remove obstructions from streets, alleys, cross and sidewalks adjoining the property or the premises occupied by them, and to levy a discriminating tax on persons and property particularly benefited by the construction or repair of streets, side and crosswalks, sewers, gutters and drains, either with or without a general tax, for general benefit of such work. \* \* \* (19) To prescribe the manner of building party walls and fences. \* \* \* (21) To provide for the collection and receiving by said city of all road poll tax and all road property tax, whether payable in labor or cash, and the expending and using the same upon the roads and streets of the city, and for this purpose the city shall constitute one road district. \* \* \*

\* \* \* \* \*

§ 7. **Style of Ordinances.**—SEC. 5. The style of the city ordinances shall be as follows: "The people of the city of Chehalis do ordain as follows:"

\* \* \* \* \*

### CHAPTER IV.—CITY OF CHENEY.

#### No. 721.—AN ACT TO CONFER A CITY GOVERNMENT UPON CHENEY.<sup>1</sup>

##### CHAPTER I.

§ 1. **General Powers.**—SECTION 1. *Be it enacted, etc.,* That the inhabitants of Cheney, Spokane county, Washington Territory, and their successors, within the limits hereinafter prescribed, are hereby constituted and declared to be a city corporation by the name and style of Cheney, and by such name shall have perpetual succession, sue and be sued, plead and be impleaded in all courts of justice, and in all actions, suits or proceedings whatever, and may purchase, condemn, hold and receive property both

<sup>1</sup>Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 335.)

real and personal within said city for public buildings, public works and city improvements; and may lease, sell or otherwise dispose of the same for the benefit of the city, and may purchase, hold and receive property both real and personal beyond the limits of the city, to be used for any of the following: For a city park or parks, or for burial purposes, or for the establishment and maintenance of a hospital for the reception and treatment of persons afflicted with contagious or other diseases, or for work houses and for houses of correction; for the erection of water works to supply the city with water, and may control, lease, sell or dispose of the same for the benefit of the city; and they shall have and use a common seal, and they may alter or break the same and make a new one at pleasure.

§ 2. **Boundaries.**—SEC. 2. The corporate limits of Cheney shall be as follows: Beginning at the southeast corner of section numbered thirteen (13), in township numbered twenty-three (23), north of range numbered forty-one (41) E., W. M., running thence north to the northeast corner of the southeast quarter of section numbered twelve, in said township and range, one and one-half miles; thence west one mile to the northwest corner of the southwest quarter of said section twelve; thence south one mile to the northwest corner of the southwest quarter of said section thirteen; thence west one-quarter of one mile; thence south one-half mile to the section line between sections fourteen and twenty-three of said township and range; thence east on said section line one and one-quarter miles to the place of beginning, comprising all of said section numbered thirteen, the south half of said section twelve, and the east half of the southeast quarter of said section fourteen, all in Spokane county, and Territory of Washington.

§ 3. **Road Districts Shall Not be Included in Corporate Limits.**—SEC. 3. The corporate limits aforesaid shall not be so construed as to include any road district, nor shall the county commissioners of the county within which said city is embraced have any authority or control over road taxes collected therein; and all funds arising from any road tax within said limits shall accrue to the said city. So much of any public highways as lie within said corporate limits shall be kept in repair by the said city; but by ordinance any highway or part thereof may be vacated and the same be made to conform to opened and established streets.

#### CHAPTER II.

§ 4. **Government.**—SECTION 1. The power and authority given to the said municipal corporation by this act shall be vested in a mayor and common council, together with such other officers as are in this act constituted, or may be created under its authority.

\* \* \* \* \*

§ 5. **Officers.**—SEC. 3. There shall also be other officers of said municipal corporation, viz.: \* \* \* a clerk, \* \* \* a treasurer, \* \* \* street commissioner and an assessor and collector, \* \* \*

\* \* \* \* \*

#### CHAPTER IV.

§ 6. **General Powers of Council.**—SECTION 1. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

\* \* \* \* \*

§ 7. **Style of Ordinances.**—SEC. 9. The style of every ordinance shall be, "The city of Cheney does ordain as follows."

#### CHAPTER V.

§ 8. **Assessment and Collection of Taxes.**—SECTION 1. The city government of Cheney, within its incorporated limits, has power and author-

ity—(1) To assess, levy and collect taxes for general municipal purposes, not to exceed one-half of one per centum per annum upon all property both real and personal within the city which is by law taxable for Territorial and county purposes.

\* \* \* \* \*

**Appropriation of Private Property for Streets, etc.—Conveyances.**—(3) To purchase or condemn and enter upon and take any lands within or without the corporate limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for work houses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon. The city shall have entire control of all such buildings and all lands purchased or condemned under the provisions of this subdivision, and all streets, highways, squares and other public grounds within its limits established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power, in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city or the public existing prior to such conveyance; but when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

\* \* \* \* \*

**Opening, Improving, etc., Streets, etc.**—(5) To provide for cleaning, opening, graveling, improving and repairing of streets and highways and alleys, and for the prevention and removal of all obstructions therefrom, or from any crossing or sidewalk; also, to regulate cellar ways and cellar lights on sidewalks within the city, and to provide for cleaning the streets; also, for constructing sewers, and cleaning and repairing the same.

**Constructing, etc., Sidewalks, and Paving, etc., Streets, etc.**—(6) To construct and repair sidewalks, and to curb, pave, grade, macadamize and gutter any streets, highways or alley therein at the cost and the expense of the owners of the lots and parcels of land fronting on such street, highway or alley. But unless the owners of more than one-half of the property fronting upon the proposed improvements upon such street, highway or alley shall have petitioned the council to make the same, such improvement shall not be made.

**Removal of Certain Nuisances: Assessment and Collection of Expense.**—(7) To cause any lot of land within its limits, on which water at any time becomes stagnant, to be drained or filled up; and to cause any vault within the city to be cleaned when necessary; and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council with reference to such matters, after such notice as in such ordinance or resolution may be prescribed, the work necessary may be done by the city at the expense of the owner, and the amount collected by action in the name of the city in any court having jurisdiction.

**Manner of Collection of Assessments.**—(8) To prescribe by an ordinance the mode by which the charge on the respective owners of lots or lands shall be determined for the purposes authorized by this act. Such charges may be collected by civil action in the name of the city. In such proceedings it shall be sufficient to declare generally for work and labor done and materials furnished on the particular lot, parcel of land, street highway or alley. If the court trying the same shall be satisfied that the work has been done, or the materials furnished, which, according to the true intent and meaning of this act, would be properly chargeable to the owner of the lot of land through or by which the street, highway or alley



improved or repaired may pass, judgment shall be rendered for the value of the work or materials performed or furnished on such lot of land, notwithstanding any informality or defect in the proceedings of the officers of this city. In such actions the city shall be entitled to recover, in addition to the amount, interest thereon at ten per cent. per annum from the time said work was done or materials furnished, together with five per cent. per annum to defray the expenses of collection, which shall be included in the judgment rendered.

**Establishing Grade of Streets, etc., and Appropriation of Private Property for—Street Railways.**—(9) To provide for the survey of the blocks and the streets of the city, for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, change, extend, vacate and establish streets, highways and alleys, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to authorize or forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places; but no railway track can thus be located and laid down until after the injury to property abutting upon the street, alley or public place, upon which the track is proposed to be located and laid down, has been ascertained and compensated.

\* \* \* \* \*

**Levy and Collection of Special Tax.**—(20) To levy and collect a special tax, not to exceed one per centum in any one year, upon all the property assessed by authority of subdivision one of this section, for any purpose within the authority of the corporation, including the payment of any existing debt; but the ordinance providing therefor must specify the object thereof and the estimated amount therefor, and the indebtedness of the city must never exceed in the aggregate the sum of five thousand dollars, and any debt or liability incurred in excess of said sum of five thousand dollars shall be invalid and void.

**May Adopt Proper Ordinances.**—(21) To adopt proper ordinances for carrying into effect the powers given by this act, \* \* \*

\* \* \* \* \*

#### CHAPTER VII.

\* \* \* \* \*

**§ 9. Assessment Roll.**—SEC. 9. The assessor must annually make a correct list of all the property subject to taxation by the city, with the valuation thereof, and certify and return the same to the clerk.

\* \* \* \* \*

**§ 10. Manner of Assessment.**—SEC. 11. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes; but the form of assessment roll and the rule for ascertaining the ownership of property and in whose name it may be assessed may be prescribed by ordinance, and the time of making such assessment and return thereof, and of applying to the council for a revision thereof, must be prescribed by ordinance.

**§ 11. Duties of Collector.**—SEC. 12. The collector shall collect all delinquent taxes and assessments when required by warrant, \* \* \*

\* \* \* \* \*

#### CHAPTER VIII.

**§ 12. Ordinances.**—SECTION 1. All ordinances and resolutions, or orders for the appropriation or payment of money, shall require, for their passage and adoption, the concurrence of a majority of all the members of the council. No ordinance shall refer to more than one subject, which shall be clearly expressed in its title; and no ordinance or section thereof shall be revised or amended unless the new ordinance contains

the entire ordinance or section revised or amended, and the ordinance or section so amended shall be repealed.

\* \* \* \* \*

#### CHAPTER IX.

**§ 13. Collection of Road Taxes.**—SECTION 1. The assessor shall, when directed by the common council, make out a list of all persons within the city liable to pay a road tax, and return such list to the council; said list of names shall be given to the collector, and he shall at once proceed to collect such road poll tax, together with the municipal tax levied for the year, from each person upon said list. The collector shall place upon his list the names of all persons found within the city, liable to pay such road poll tax, who shall fail to produce a receipt for the payment of a road poll tax for the current year, and shall demand the amount due from each person named upon the list. All penalties and fines prescribed by the laws of the Territory for the enforcement and collection of road taxes shall apply to the collection of such taxes within said city limits.

**§ 14. Rate of Interest on Delinquent Taxes.**—SEC. 2. Whenever any general or special tax has been levied as provided and authorized by this act, every part thereof shall bear interest at the legal rate from the time it is due and payable until paid or collected.

**§ 15. What Taxes Are Delinquent.**—SEC. 3. The council must provide by ordinance within what time all municipal taxes, whether general or special, may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes, and the treasurer must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

**§ 16. Collection Delinquent Taxes.**—SEC. 4. The council must thereafter order the clerk to deliver the tax roll to the collector, and issue and annex thereto a warrant, directed to the county treasurer or collector of delinquent county and Territorial taxes, authorizing the collection of the delinquent taxes upon such roll, in the manner provided by law for the collection of delinquent Territorial and county taxes, and thereafter all proceedings for the collection of such delinquent taxes shall be as regulated and prescribed in the laws of the Territory relating to the collection of delinquent taxes.

#### CHAPTER X.

\* \* \* \* \*

**§ 17. Actions Concerning Assessments, etc.—Discretion of Council.**—SEC. 5. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax, or proceedings thereon, such assessment, levy, consequent proceedings, and all proceedings connected therewith, shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is, by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final, and cannot be reversed or called in question elsewhere.

\* \* \* \* \*

**§ 18. Petition for Improvement.**—SEC. 7. No street, highway or alley shall be extended, widened, altered or vacated except on petition to the city council, signed by a majority of the resident owners of the real estate within the block or blocks in or through which such street, highway or alley is proposed to be extended, widened, altered or vacated.

**§ 19. Appraisement and Settlement of Damages for Establishing Grade of Street, etc.**—SEC. 8. When the grade of any street, highway or alley shall have been established by authority of the city, and any person

or persons shall have built or made improvements on such street, highway or alley, and the city shall afterward change the established grade or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage; and when the parties interested are unable to agree with the city council as to the amount so to be paid; the same shall be assessed by three persons, one of whom shall be appraised<sup>2</sup> by the mayor, one by the owner or owners of the property and one by the two so appointed, or in case of their disagreement, by the city council; said appraisers shall be sworn to faithfully execute their duties according to the best of their ability; they shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment; they shall assess the damage sustained over and above the additional value of the property by reason of the change or improvement; they shall sign their report and deliver the same to the clerk of the district court, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final and the city shall pay the amount so assessed, and the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk of said district court shall, upon filing a written precipe therefor, by the city or any person aggrieved, within said twenty days, enter the case upon the trial docket for the next term; the party claiming damages shall be the plaintiff and the city shall be the defendant; the usual pleadings in a civil action may be filed or such special pleadings as the court shall allow, and the issue thus formed shall be tried as other civil actions, the costs to be taxed against the city, when the judgment is for a larger amount than was awarded by the appraisers, or the cause has been tried at the instance of the city for the purpose of reducing the amount of damages and the damages are not so reduced; otherwise the costs shall be taxed against the parties claiming damages.

**§ 20. Appraisement and Settlement of Damages for Appropriation of Private Property.**—SEC. 9. When private property shall have been condemned, and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, the appraisement of damages to be paid to the owners of the property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property condemned or damaged, or if either or both said classes of property owners fail or refuse to make such appointment, after ten days' notice so to do, which notice shall be given in the manner to be prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn, and shall report within the time and in the manner prescribed for appraisements in the preceding section; this award shall be final unless appeal is made within twenty days from the time of the return thereof to the district court. Any person aggrieved by the award may, upon filing a precipe therefor, have the case docketed for trial at the next term of court; when the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair charges upon property, the city shall be plaintiff and the owner of the property defendant; the issue shall be made up, the case tried and determined, and costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city, and all costs of the appraisement and other proceedings under this section, shall be added to the gross amount to be collected from the several property holders, in the same proportion as

<sup>2</sup> Appointed.

said gross amount; and said judgment and costs shall be a lien upon the property therewith charged.

§ 21. **Manner of Appropriation in Other Cases.**—SEC. 10. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property; and when such owners and the city and council are unable to agree as to the amount of such compensation, the same shall be determined in the manner provided by the general law of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

\* \* \* \* \*

**No. 722.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CONFER A CITY GOVERNMENT UPON CHENEY," APPROVED NOVEMBER 28, 1888.<sup>1</sup>

§ 1. **Officers.**—*Be it enacted, etc.* SECTION 1. That section 3 of chapter XI<sup>2</sup> of said act be amended so as to read as follows: Section 3. There shall be other officers of said municipal corporation, viz: A \* \* \* clerk, \* \* \* a treasurer and a street commissioner; \* \* \*

§ 2. **Manner of Assessment and Collection of Tax.**—SEC. 2. Sections nine (9), \* \* \* eleven (11) and twelve (12) of chapter seven (7)<sup>3</sup> of said act are hereby repealed.

§ 3. SEC. 3. Chapter IX<sup>4</sup> of said act is hereby amended to read as follows:

#### CHAPTER IX.

§ 4. **Determination of Tax.**—SECTION 1. The common council, at its first regular meeting in May, in each year, shall estimate the amount of taxes to be raised for general municipal purposes and for any special purpose for which a tax is authorized for the ensuing year, which determination shall be entered at large on its records. The council at such meeting shall also determine from the assessment roll of the preceding year the rate of taxation which will be necessary to produce the required revenue as near as may be.

§ 5. **Taxes to be Certified to County Auditor.**—SEC. 2. The city clerk shall, on or before the third Monday in August in each year, certify to the county auditor of Spokane county a list of all real estate in said city, with the valuation thereof as shown by the assessment roll of said county, as equalized by the county commissioners; also a list of all residents of said city liable to pay a poll tax or a tax on personal property, which list shall show the amount of poll tax due from each person thereon and the amount of tax due for general municipal purposes, and the amount due for any special municipal purpose, upon each parcel of real estate and from each person listed thereon, in separate columns.

§ 6. **Duty of Auditor.**—SEC. 3. The county auditor shall thereupon extend the same upon the general assessment roll of said county, and certify the same to the county treasurer, who shall proceed to collect such tax in the same manner, at the same time and with the same power to enforce payment as in the case of county and Territorial taxes.

\* \* \* \* \*

§ 7. **Collection Delinquent Taxes.**—SEC. 7. All delinquent taxes due said city shall be collected by the same officers and in the same manner as delinquent county and Territorial taxes are collected.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 23, 1885. (See Tenth Bien. Sess. 1885-86, p. 442.)

<sup>2</sup> Should be "chapter II." (See No. 721, § 5, *supra*.)

<sup>3</sup> See *ibid.*, §§ 9, 10, 11.

<sup>4</sup> See *ibid.*, §§ 13, 14, 15, 16.

CHAPTER V.—CITY OF COLFAX.

No. 723.—AN ACT TO INCORPORATE THE CITY OF COLFAX.<sup>1</sup>

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Colfax, in Whitman county, shall be bounded as follows, to wit: That portion of land described as follows: Commencing at the southwest corner of section 14, township 16 north, of range 43 east; thence east along the section line to the southeast corner of the west half of southeast quarter of said section; thence north to the northeast corner of the west half of southeast quarter of said section; thence west to the northeast corner of the southwest quarter of said section; thence north to the northeast corner of the northwest quarter of said section; thence east 120 rods; thence north 80 rods; thence west 280 rods to the northwest corner of the south half of the southwest quarter of section 11, of said township 16 north, of range 43 east; thence along the west line of sections 11 and 14 south to the place of beginning, being the southwest corner of section 14, township 16 north, of range 43 east, of the Willamette meridian, Whitman county, Washington Territory.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Colfax, within the limits above described, shall be and they are hereby constituted a body politic and corporate in fact and in law, by the name and style of the "City of Colfax," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold real property beyond the limits of the city, to be used for burial purposes; also, for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also, for work houses or houses of correction; also, for the erection of water works to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. The government of said city shall be vested in a mayor, a common council consisting of five members, a city marshal, \* \* \* a city assessor, \* \* \*

ARTICLE III.

\* \* \* \* \*

§ 4. **Duties of Assessor.**—SEC. 2. \* \* \* The city assessor shall, within such time as is by ordinance provided, make out and return to the common council a correct list of all the taxable property within the limits of the city, with the valuation thereof, and the names of the persons liable to be taxed therefor. The mode of making out said list, ascertaining the value of the property and collecting the taxes shall, as nearly as may be practicable, be the same as that prescribed by law for assessing and collecting Territorial and county taxes; and he shall, as such assessor, discharge such other duties as may by ordinance be prescribed. He shall, also, as *ex-officio* clerk, be the custodian of the records and seal of the city, and shall authenticate its public acts. \* \* \*

<sup>1</sup>Approved Nov. 29, 1881. (See Eighth Bien. Sess. 1881, p. 157.) In effect from date.



§ 5. **Duties of Marshal.**—SEC. 3. The marshal shall \* \* \* collect delinquent city taxes. \* \* \*

\* \* \* \* \*

#### ARTICLE VI.

§ 6. **Powers of the Council.**—SECTION 1. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or of this Territory. (2) To levy and collect taxes not exceeding one per cent. per annum upon all property made taxable by law for county and Territorial purposes: \* \* \* (14) To remove all obstructions from streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repairing of the same, as well as all sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises to clean and remove obstructions from cross and sidewalks adjoining their property or the premises occupied by them, and to levy a discriminating tax on persons and property particularly benefited by the construction or repair of streets, side and crosswalks, either with or without a general tax for general benefit of such work. \* \* \* (19) To prescribe the manner of building party walls and fences. \* \* \*

\* \* \* \* \*

§ 7. **Style of Ordinances.**—SEC. 4. The style of the city ordinances shall be as follows: "The people of the city of Colfax do ordain as follows."

\* \* \* \* \*

#### No. 724.—AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF COLFAX.<sup>1</sup>

§ 1. **Improvement of Streets, etc.**—SECTION 1. *Be it enacted, etc.,* That section 14 of article 6 of an act entitled "An act to incorporate the city of Colfax," approved November 29, 1881,<sup>2</sup> shall be amended to read as follows: To remove all obstructions from streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repairing of the same, as well as all sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises to clean and remove obstructions from cross and sidewalks adjoining their property or the premises occupied by them; to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grade of all streets within the city; and to lay off, widen, straighten, name, extend, locate and establish streets, highways and alleys, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purpose, and to levy a general tax for the general benefit of such work.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 129.) In effect from date.

<sup>2</sup> See No. 723, § 6, subd. 14, *supra*.

CHAPTER VI.—CITY OF DAYTON.

No. 725.—AN ACT TO INCORPORATE THE CITY OF DAYTON.<sup>1</sup>

CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the corporate limits of the city of Dayton and the boundaries thereof shall be as follows, to wit: Beginning at the northeast corner of section thirty in township ten, north of range thirty-nine, east, thence west forty rods, thence north eighty rods, thence west one hundred and twenty rods, thence south eighty rods, thence west one hundred and sixty rods, thence south two hundred and forty rods, thence east two hundred and forty rods, thence south eighty rods, thence east one hundred and sixty rods, thence south eighty rods, thence east eighty rods, thence north one hundred and sixty rods, thence west eighty rods, thence north eighty rods, thence west eighty rods, thence north one hundred and sixty rods to the place of beginning, all in the county of Columbia, and Territory of Washington.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Dayton within the limits above described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "city of Dayton," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and in all actions, suits or proceedings whatever, contract and be contracted with, and have and use a common seal and alter or change the same at pleasure.

CHAPTER II.

§ 3. **General Powers of Taxation.**—SEC. 3. The city of Dayton has power<sup>2</sup> to assess, levy and collect taxes for general municipal purposes,<sup>3</sup> not to exceed one-half per centum<sup>4</sup> per annum upon all property, both real and personal within the city<sup>5</sup> which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided, but all taxes for general and special municipal purposes, exclusive of assessments for improvements as in this act is hereinafter provided, shall not exceed in any year one and one-half per centum per annum on the property assessed.

§ 4. **Protection From Fire: Taxation for.**—SEC. 4. The city of Dayton shall have power to make regulations for the prevention of accidents by fire. To organize and establish fire departments<sup>6</sup> and make and ordain rules for the government of the same. To provide fire engines and other apparatus, and to levy and collect special taxes for that purpose not to exceed in any one year one-fifth of one per centum upon the taxable property within the corporate limits of the city.

§ 5. **Appropriation of Private Property for Streets, etc.: Taxation for — Conveyances.**—SEC. 5. The city of Dayton has power<sup>2</sup> to purchase, or condemn, and enter upon and take any lands<sup>7</sup> within or without<sup>15</sup> its territorial limits for public squares, streets, parks, commons,<sup>8</sup> cemeteries, hospital grounds, or to be used for work houses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes, not exceeding one-fifth of one per centum in any<sup>9</sup> year. The city shall have entire control of all such buildings, and all lands purchased or

<sup>2</sup> <sup>3</sup> <sup>4</sup> <sup>5</sup> <sup>6</sup> <sup>7</sup> <sup>8</sup> <sup>9</sup> See No. 727, *infra*.

<sup>15</sup> See No. 750, *infra*.

condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been, or may hereafter be, dedicated to public use, by any person or persons, and has power, in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property executed in the same manner that may be prescribed by ordinance, shall vest in the purchaser all the right, title and interest of the city therein.

**§ 6. Lighting Streets, etc.: Taxation for.**—SEC. 6. The city of Dayton has power<sup>2</sup> to provide for the lighting of the streets with gas or other lights within such districts or limits as may be prescribed by ordinance, and for the erection or construction of such works as may be necessary or convenient therefor, and has power to levy and collect for these objects a special tax not exceeding one-fifth of one per centum per annum upon the taxable property within such districts or limits benefited by such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes shall be assessed upon and collected only from property within said districts or limits.

**§ 7. Opening, Improving, etc., Streets, etc.: Taxation for.**—SEC. 7. The city of Dayton shall have power to provide for clearing, opening, graveling, improving and repairing streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, and from any cross or sidewalk, also to regulate cellarways, cellar lights and sidewalks within the city, and to provide for cleaning the streets, and for constructing sewers and cleaning and repairing the same, and shall have power to assess, levy and collect each year a road poll tax of not less than four nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except active or exempt firemen and persons that are a public charge; also a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the corporate limits of the city, which taxes shall be expended for the purposes specified in this section, and there shall not be levied or collected by the county of Columbia, or the officers thereof, any road tax or road poll tax upon the property or inhabitants within the city.

**§ 8. Constructing, etc., Sidewalks and Paving, etc., Streets, etc.: Taxation for.**—SEC. 8. The city of Dayton shall have power to construct and repair sidewalks, and to curb, pave, grade, macadamize and gutter any street or streets, highway or highways, alley or alleys within the city, or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys, or any part thereof, sufficient to pay the expense of such improvement, and for that purpose may establish assessment districts consisting of the whole or any portion of such street or streets, highway or highways, alley or alleys, or of several streets, highways and alleys, as may be deemed advisable. But unless the owners of more than one-half of the property subject to assessment for such improvement petition the council to make the same, such improvement shall not be made until a majority of five-sevenths<sup>16</sup> of all the members of the council by vote authorize the making of the same.

**§ 9. Removal of Certain Nuisances: Assessment and Collection of Expense.**—SEC. 9. The city of Dayton shall have power to cause any lot of land within the city limits, on which water at any time becomes stagnant, to be drained or filled up, and to cause any vault upon any lot or block within the city to be cleaned when necessary, and in case of failure or re-

<sup>2</sup> See No. 727, *infra*.

<sup>16</sup> See No. 750, *infra*.

fusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council, with reference to such matters after such notice, as in such ordinance or resolution may be prescribed, the work necessary may be done at the expense of the city, and the amount so expended shall be assessed as a tax upon such property, and shall be collected as other assessments.

**§ 10. Establishing Grade of Streets, etc.; Appropriation of Private Property for — Street Railways.**—SEC. 10. The city of Dayton shall have power to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets and to establish the grades of all streets within the city, and to lay off, widen, straighten, name, change, extend, vacate and establish streets, highways, alleys, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvements authorized by this section, to be applied on compensation of property so condemned or damaged, or to authorize or prevent the location and laying down of railway tracks and street railways on all streets, alleys and public places, and no railway track can thus be laid down until the injury to property abutting upon the street, alley or public place, upon which such track is proposed to be located and laid down, has been ascertained and compensated in the manner provided for compensation of injuries arising from re-grade of streets in section 122 of this act.

**§ 11. Erection, etc., of Water Works.**—SEC. 11. The city of Dayton shall have power to erect and maintain water works, or to authorize the erection of the same, for the purpose of furnishing the city with a sufficient supply of water, but no such works shall be erected by the city until a majority of the voters of the city, at a general or special election, or five-sevenths<sup>10</sup> of the members of the city council by vote assent thereto.

**§ 12. Extra-Territorial Jurisdiction.**—SEC. 12. The city of Dayton shall have power to construct, or authorize the construction of, such water works, within or without the city limits of the city, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works, and all reservoirs, streams, trenches, pipes and drains, used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which water is taken for five miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect.

**§ 13. Term of Franchise for Water Works.**—SEC. 13. If the right to construct and operate such water-works is granted to private individuals or incorporated companies by said city, it may make such grant to inure for a term of not more than twenty-five years, and may authorize such individual or company to charge and collect from each person supplied by them with water, such water rent as may be agreed upon between said persons or corporation in building such works. \* \* \*

**§ 14. Appropriation of Private Property for Water Works.**—SEC. 14. Said city is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works,<sup>17</sup> and if it shall authorize the construction and operation thereof by individuals or private corporations, it may confer by ordinance upon such person or persons, or corporation, the said power to take and appropriate private property for such purpose.

<sup>10</sup> See No. 727, *infra*.

<sup>17</sup> See No. 750, *infra*.

**§ 15. Purchase and Maintenance of Water Works: Taxation for.**—**SEC. 15.** The city of Dayton shall have power, at the regular time for levying taxes in any year, to levy and collect a special tax not exceeding one-half of one per centum upon the taxable property within the corporate limits of the city for the purpose of constructing such water works: *Provided*, That no such tax shall be levied or collected for the purpose of aiding any private individual or corporation; and when such work shall have been constructed, said city shall have power to assess and collect, from time to time, in such manner as the city council may deem equitable, from each tenement, or other place supplied with water, such water rent as may be deemed reasonable, and at the regular time for levying taxes in each year to levy and collect, in addition to the tax already authorized by this section, a special tax on the taxable property within the city limits, sufficient with the water rents hereby authorized, to pay the expenses of running and operating such works, and if the right to construct, maintain and operate such water works shall be granted to private persons or corporations by the city, and the city shall contract with such person, persons or corporation for supply of water for any purpose, said city shall levy and collect, each year, a special tax sufficient to pay such water rent to such <sup>11</sup> persons or corporation: *Provided, further*, That said taxes shall not exceed one-half of one per centum upon the taxable property within said city limits.

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**§ 16. May Adopt Proper Ordinances.**—**SEC. 23.** The city of Dayton shall have power to adopt proper ordinances for the government of the city, and to carry into effect the power given by this act \* \* \*

**§ 17. Incidental Powers.**—**SEC. 24.** The city of Dayton shall have \* \* \* such other powers and privileges, not herein specially enumerated, as are incident to municipal corporations of like character and degree, not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act according to the true intent and meaning thereof.

#### CHAPTER III.

**§ 18. Government.**—**SEC. 25.** The power and authority hereby given to the city of Dayton by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned or may be created under its authority.

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**§ 19. Officers.**—**SEC. 28.** There shall be elected \* \* \* clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner and an assessor, who shall be officers of the corporation. \* \* \*

#### CHAPTER VI.

**§ 20. Powers of the Council.**—**SEC. 44.** The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

#### CHAPTER VIII.

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**§ 21. Duties of Assessor.**—**SEC. 65.** The assessor must annually make a correct list of all the property within the corporate limits of the city, subject to taxation by the city, with the valuation thereof, and certify and return the same to the clerk.

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<sup>11</sup> See No. 727, *infra*.



§ 22. **Manner of Assessment.**—SEC. 67. The assessment must be made on the property and in the manner designated and prescribed by law for assessing property for territorial and county taxes; but the form of the assessment roll, and the rule for ascertaining the ownership of property, and in whose name it may be assessed, may be prescribed by ordinance, and the time of making such assessment and the return thereof, and of applying to the council for revision thereof, must be prescribed by ordinance.

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CHAPTER IX.

§ 23. **Ordinances.**—SEC. 74. The style of every ordinance shall be "The city of Dayton does ordain as follows." All ordinances and resolutions, or rules for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all the members of the council. No ordinance shall embrace more than one object, and that shall be expressed in the title, and no ordinance or section thereof shall be revised or amended unless the new ordinance or section contain the entire ordinance or section revised or amended, and the ordinance or section so amended shall be repealed.

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CHAPTER X.

§ 24. **Notice of Intention to Improve, etc.: Substance and Manner of.**—SEC. 76. The city council, whenever it deems it expedient to establish or alter the grade of any street or alley of the city, or to make any improvements thereof, as authorized by sections five, six, seven, eight, nine and ten of this act, shall cause a survey, diagram and estimate of the cost thereof to be made by the city surveyor,<sup>18</sup> and the said survey, diagram and estimate shall be filed in the office of the city clerk for the inspection of all persons interested therein,<sup>19</sup> and a notice of the intention to grade, pave or otherwise improve said street or alley, and the filing of such survey, diagram and estimate, shall be given by two weekly publications in the newspaper doing the city printing. Such notice must specify the street or part thereof to be improved, or of which the grade is to be altered and the kind of improvement proposed to be made.

§ 25. **Effect of Remonstrance.**—SEC. 77. If, within ten days from the final publication of such notice, two-thirds in number of the persons owning property on said street or alley, and representing one-half of the property in said street or alley, shall file with the city clerk a remonstrance against said improvements, grade or alteration, the same shall not be further proceeded with.

§ 26. **Effect of Failure to Remonstrate.**—SEC. 78. If no such remonstrance be made and filed, as in the last section provided, the council, at its earliest convenience thereafter, and within four months from the publication of such notice, may establish the proposed grade and proceed to make the proposed improvements.

§ 27. **Manner of Appraisement and Assessment of Abutting Property.**—SEC. 79. In all cases when the council shall, by ordinance, order the improvement of any street or alley, or the alteration of the grade of any street or alley, and the cost thereof has been duly estimated as herein provided, they shall, [before proceeding with the execution of the work,]<sup>20</sup> cause an appraisement of the lots and land abutting on said street adjacent to said improvement and assessable for the costs thereof, as follows: An assessor shall be appointed by the council and sworn to appraise all lots and parts of lots and lands, irrespective of the improvements or structures thereon, and the whole cost of said grade, planking, graveling or other improvements shall be assessed, *pro rata*, on said lots or parts

<sup>18</sup> <sup>19</sup> <sup>20</sup> See No. 750, *infra*.

thereof, and lands as aforesaid, according to the assessed value thereof, which apportionment shall be made by the city council, by ordinance, and a tabulated statement thereof shall be made out by the city clerk and filed in his office for the information of all persons concerned, and a notice thereof published in the newspaper doing the city printing for two weeks. Such statement shall show the name of the owner of each lot, if known; the number and frontage of each lot, part of a lot or other land; the number of the block, if numbered, and the value of such lots, parts of lots and other land respectively.

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**§ 28. Lien of Taxes for Improvements: How Required and Released.**—SEC. 81. When the tabulated statement, as provided in section 79, has been approved by the council, the same shall be recorded in the office of the county auditor of the county of Columbia, in the records of liens on real property, and shall be and remain a lien on the lots, parts of lots and lands described therein for the several sums assessed thereon, respectively, and as fast as the said several assessments are paid, the city clerk is authorized and required to enter on said county record of said liens a release thereof, which be made in the margin of said record, opposite the lot or land so released, and the same shall be thereafter discharged from said lien.

**§ 29. Collection of Such Taxes.**—SEC. 82. When the city council shall have duly<sup>12</sup> approved of said assessment and apportioned the cost of the improvement, they shall, by ordinance, establish the same and require the payment of said assessment within ten days from the approval thereof, and shall give notice in the newspaper doing the city printing, that said assessment is due and payable to the city treasurer. The clerk shall furthermore make out and deliver to the treasurer a copy of said appraisement and assessment, who shall proceed to collect the same in the same manner as other city taxes, except as is herein otherwise provided.

**§ 30. Warrant for Collection.**—SEC. 83. If within ten days after the publication of said last named notice the sum assessed upon any lot, part of lot or other land is not paid to the treasurer, the city council may at any time thereafter order a warrant for the collection of the same to be issued by the city clerk, directed to the city marshal.

**§ 31. What Warrant Shall Require.**—SEC. 84. Such warrant must require the city marshal to forthwith levy upon the lot, part of lot or other land upon which the assessment is unpaid, and sell the same in the manner provided by law for the sale of real estate for delinquent taxes, and return the proceeds of such sale, less his fees, to the city treasurer, and the warrant to the county auditor, with his doings endorsed thereon, together with the receipt of the city treasurer for the proceeds of such sale.

**§ 32. Tax Deed: Limitation of Redemption.**—SEC. 85. The person executing such warrant shall immediately make a deed for the property sold to the purchaser, stating therein that the same is made subject to redemption as hereinafter provided. Within three years from the date of sale the owner or his successor in interest, or any person having a lien by judgment, decree or mortgage on the property or any part thereof, separately sold, may redeem the same upon the terms and conditions provided in the next section.

**§ 33. Manner of Redemption.**—SEC. 86. Redemption is made by the payment of the purchase money and twenty-five per cent. additional, together with the interest upon the purchase money from the date of the sale to the time of payment, at legal rate, and the amount of any tax which the purchaser may have paid upon the property.

<sup>12</sup> See No. 727, *infra*.

**§ 34. Effect of Redemption.**—SEC. 87. A redemption discharges the property from the effects of the sale and from the assessment. If made by the owner or his successor in interest, the estate in the property is hereby restored to such owner or successor in interest; but if made by a lien holder the amount so paid shall form part of his lien and bear the same rate of interest.

**§ 35. Effect of Sale.**—SEC. 88. A sale of real property under the provisions of this chapter conveys to the purchaser (subject to redemption), all the estate or interest therein of the owner, whether known or unknown.

**§ 36. Fees, etc., to be Collected From Property Assessed.**—SEC. 89. The fees and percentage to be allowed to the person for making the sale of property for delinquent assessment for street improvements, as provided in this chapter, shall be fixed by the council by ordinance, and shall be added to and form a part of such assessment from the time the same becomes delinquent, and shall be collected from the property assessed in the same manner as the original assessment, and in no instance shall the city be liable for such percentage, costs or fees.

**§ 37. Rate of Interest on Delinquent Taxes.**—SEC. 90. All money paid or collected upon assessment for the improvement of streets or alleys shall be kept as a separate fund and in no wise used for any other purpose whatever; all money so assessed from the time of being entered in the record of liens shall bear interest at the legal rate until paid.

**§ 38. If Sum Assessed Insufficient to Defray Cost, Deficiency Shall be Added.**—SEC. 91. If upon the completion of any improvement of any street or alley it is found that the sum assessed therefor is insufficient to defray the costs thereof, the city council must ascertain the deficiency and declare the same by ordinance; and when so declared the city clerk shall give notice thereof, and such deficiency shall be added to the original assessment and collected in the same manner; and when such assessment shall be in excess of the sum required for said improvement, the same shall be repaid to the parties owning the property or their representatives.

**§ 39. Assessment Districts.**—SEC. 92. For the purpose of making the appraisement specified in section 79 of this chapter, the city council may establish assessment districts, consisting of the whole of any street or streets or parts thereof benefited by said improvements.

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**§ 40. What Tax Deed Shall State.**—SEC. 94. The deed to the purchaser must express the true consideration therefor, and the return of the person executing the warrant must specify the amount for which the lot was sold and the name of the purchaser.

#### CHAPTER XI.

**§ 41. Collection of Delinquent Taxes.**—SEC. 95. The assessor shall annually make out a list of the names of all persons within the city liable to pay a road poll tax as provided in section seven of this act; and at the time of making said list the assessor shall demand from each person the road poll tax levied for said year by the council; and if said road poll tax is then paid, the assessor shall mark the same "Paid" on said list, and give to the person so paying a receipt therefor; and the said list shall be returned to the city council with the return of his assessment of property, and he shall pay over to the city treasurer the money received by him, and file his receipt therefor with the city clerk. The said poll tax list shall be given to the city treasurer, and he shall at once proceed to collect the unpaid road poll tax thereon from the persons named in said list. The treasurer shall also place upon said list the names of all persons found within the city liable to pay such poll tax who shall fail to

produce a receipt for the payment of a road poll tax for the current year. The treasurer shall demand the amount due from each person named upon the list, and shall proceed at once to collect the same from any person who shall fail to pay the same when so demanded, by levy and sale of the property, real or personal, of such person so delinquent, or sufficient thereof for that purpose, and to pay the expense of the levy and sale. \* \* \*

§ 42. **Rate of Interest on and Lien of Tax.**—SEC. 96. Whenever any general or special tax has been levied, as provided and authorized by chapter two of this act, every part thereof shall bear interest at the legal rate from the time it is due and payable until paid or collected, and shall be a lien from said time upon any real property owned by the party assessed.

§ 43. **When Taxes Become Delinquent.**—SEC. 97. The council shall provide by ordinance within what time all taxes levied as provided and authorized by the provisions of chapter two of this act may be paid to the treasurer, and all taxes not paid to the treasurer within such time are thereafter delinquent taxes and shall be collected as such, and ten per cent. thereon in addition and ten per cent. per annum.

§ 44. **Return of Roll.**—SEC. 98. Within five days from the expiration of the time limited for paying taxes to the treasurer, the treasurer must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

§ 45. **Warrant for Collection.**—SEC. 99. The council, upon receiving the tax roll from the treasurer, shall order the city clerk to annex thereto a warrant under the seal of the city, and directed to the marshal, commanding him to proceed and forthwith to collect the delinquent taxes upon said roll in the manner provided by law, and pay the same to the treasurer, less his fees and costs of collecting, and return the warrant, with his doings endorsed thereon, to the city clerk, together with the receipt of the treasurer for all moneys collected thereby and paid to the treasurer. The clerk shall deliver said tax roll, with the warrant annexed thereto, as aforesaid, to the city marshal.

§ 46. **Force and Effect of Warrant.**—SEC. 100. Said warrant, for the purpose of collecting such delinquent taxes, shall be deemed an execution against property and shall have the force and effect thereof against any person or corporation against whom such taxes are levied or charged on the tax roll and against their property, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

§ 47. **In what Case Real Property to be Levied on.**—SEC. 101. If personal property be not found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it must be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officers, and all expenses of sale and executing the warrant.

§ 48. **How Levied Against Unknown Owner.**—SEC. 102. In case of delinquent tax levied upon real property in the name of an owner unknown, the warrant shall be executed by levying upon each lot or part thereof of such property for the tax levied thereon and selling the same separately.

§ 49. **Collection of Taxes Heretofore Levied.**—SEC. 103. All taxes heretofore levied by the "inhabitants of the town of Dayton," a corporation duly organized under an act of the legislative assembly of the Territory of Washington, entitled "An act to provide for the incorporation of towns," approved November 29, 1871,<sup>†</sup> and remaining unpaid or delin-

<sup>†</sup> See No. 434, *supra*.

quent, may, by order of the council be collected from the person, firm or corporation, whether known or unknown, against whom the same is charged or levied, by warrant, in the same manner and with the same effect as in this chapter is provided for the collection of delinquent taxes.

§ 50. **Tax Deed—What Shall State.**—SEC. 104. When real property is sold for delinquent taxes, the person executing the warrant must immediately make a deed for such property to the purchaser, stating therein that the same is made subject to redemption as provided by law, and such deed shall have the effect provided in section eighty-eight of this act.

§ 51. **Redemption: Manner and Limitation of.**—SEC. 105. Real property sold for taxes as provided for in this chapter, may be redeemed by the owner or his successor in interest, or any person<sup>13</sup> having a lien by judgment, decree or mortgage on such property or any part thereof separately sold within three years from the date of deed therefor, and upon the terms and conditions and with the effect provided in chapter nine of this act in the case of sale of real property for delinquent assessments for the improvement of streets; and such delinquent tax may be paid by such lien creditors in the same manner and with like effect as a delinquent assessment, as provided in sections eighty-six and eighty-seven of this act.

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§ 52. **Return of Warrant, etc.**—SEC. 108. The council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for the collection of delinquent taxes must be made on the warrant and collected as a part of the tax. The council may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the city treasury.

§ 53. **What Property Subject to Levy.**—SEC. 109. All property subject to levy and sale on execution is subject to levy upon a warrant for the collection of delinquent taxes, and also<sup>14</sup> all property subject to assessment for taxes, as provided by this act, whether the same be exempt from execution or not. The city marshal shall, on entering upon the discharge of his duties as tax collector, give a bond to the city of Dayton, in the sum to be fixed by the council, not less than two thousand dollars, conditioned for the faithful performance of his duties as tax collector and that he will pay over the moneys collected by him as required by law.

#### CHAPTER XII.

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§ 54. **Actions Concerning Assessments, etc.—Discretion of Council.**—SEC. 115. In any action, suit or proceeding in any court, concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax, or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith, shall be presumed to be regular and duly taken until the contrary is shown; and when any proceeding, matter or thing is, by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.

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§ 55. **What Shall Not be Necessary to Recite in Deed.**—SEC. 117. In making a deed for real property, sold for delinquent taxes, it shall not be necessary to recite or set forth the proceedings prior to the sale, but it shall be sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city for delinquent taxes, and

<sup>13</sup> <sup>14</sup> See No. 727, *infra*.



the amount thereof, together with the date of the sale and the amount paid therefor by the purchaser. The warrant for the collection of delinquent taxes shall be and run in the name of the city of Dayton.

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§ 56. **Assessment of Acreage.**—SEC. 119. All real property within the limits of the city of Dayton not laid off in blocks or lots at the time of making any assessment authorized by this act, must be assessed at its cash value per acre, or fractional part thereof, as the case may be.

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§ 57. **Petition for Improvement.**—SEC. 121. No street, alley or highway shall be extended, widened, altered or vacated, except on petition to the common council, signed by a majority of the resident owners of real estate within the ward or wards in or through which such street, alley or highway is proposed to be extended, widened or vacated, or unless at a regular meeting of the council, all the members being present, at least five members<sup>21</sup> vote in favor of the same.

§ 58. **Appraisement and Settlement of Damages by Establishing Grade of Streets.**—SEC. 122. When the grade of any street, highway or alley shall have been established by authority of the city of Dayton, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterwards change the established grade, or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage, and when the parties injured are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two so appointed, or in case of their disagreement, by the city council; said appraisers shall be sworn to faithfully execute their duties, according to the best of their ability. They shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment. They shall assess the damages sustained, over and above the additional value of the property, by reason of the change or improvements. They shall sign their report and deliver the same to the clerk of the district court of the county or district embracing the city, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final, and the city shall pay the amount so assessed, and upon filing a precept therefor, the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk of said court shall, upon the filing of a written precept therefor, by the city or any person aggrieved, within said twenty days, enter the case upon the trial docket for the next term of the said district court. The party claiming damages shall be the plaintiff, and the city shall be the defendant. The usual pleading in a civil action may be filed and such special pleadings as the court may allow, and the issues thus formed shall be tried as other civil actions. The costs shall be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the same has been tried at the instance of the city for the purpose of reducing the amount of damages and the damages are not so reduced, otherwise the cost shall be taxed against the party claiming damages.

§ 59. **Appraisement and Settlement of Damages for Appropriation of Private Property.**—SEC. 123. When private property shall have been condemned and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, as provided in section ten

<sup>21</sup> See No. 750, *infra*.

Of this act, the assessment upon the various lots or parcels of land so charged and the appraisement of damages to be paid to the owner of the property condemned, shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of property subject to assessment, and one by the owner or owners of property condemned or damaged; or if either or both said classes of property owners fail or refuse to make such appointment after ten days' notice so to do, which notice shall be given in the manner prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn; shall proceed in making the assessments, and shall report within the time and in the manner prescribed for appraisers in the preceding section. Their award shall be final unless objection is made within twenty days from the time of the return thereof, to the clerk of the district court. Any party aggrieved by the award may, upon filing a precipe therefor, have the case docketed for trial at the next term of the court. When the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair assessments upon property, the city shall be plaintiff and the owner of the property defendant. The issue shall be made up, the case tried and determined, and costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city and all costs of the appraisements and other proceedings under this section shall be added to the gross amount to be raised by assessment, and collected from the several property holders in the same proportion as said gross amount, and said assessments and costs shall be a lien upon the property therewith charged.

§ 60. **Manner of Appropriation in Other Cases.**—SEC. 124. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of the Territory relating to the mode of proceeding to appropriate lands by private corporations.†

§ 61. **Former Incorporation Dissolved.**—SEC. 125. That the inhabitants of the town of Dayton, a corporation organized and existing under an act of the legislative assembly of the Territory of Washington, entitled "An act to provide for the incorporation of towns," approved November 29, 1871,‡ be and the same is hereby disincorporated and dissolved.

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§ 62. **Collection of Taxes Heretofore Levied.**—SEC. 127. All the taxes heretofore levied by the inhabitants of the town of Dayton, and remaining unpaid or delinquent, shall be paid to the city of Dayton, as in this act provided for the payment of taxes, and such taxes may, by order of the city council, be collected from the person, firm or corporation, whether known or unknown, against whom the same was assessed, levied or charged, by warrant, in the same manner and with the same effect provided in this act for the collection of delinquent taxes.

\* \* \* \* \*

§ 63. **Force and Effect of Ordinances Heretofore Adopted.**—SEC. 130. All ordinances of the inhabitants of the town of Dayton, in force when this act goes into effect, shall be and remain in full force after this act takes effect and until the same are repealed by the common council of the city of Dayton, and all rights vested and liabilities incurred under

† See No. 434, *supra*.

‡ See No. 460, *supra*.

said corporation of the inhabitants of the town of Dayton or any ordinance of said inhabitants of the town of Dayton, when this act takes effect, shall not thereby be lost, impaired or discharged.

\* \* \* \* \*

§ 64. **Date in Effect.**—SEC. 132. This act to take effect and be in force from and after the first day of January, 1882: \* \* \*

**No. 726.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF DAYTON," APPROVED NOVEMBER 10, 1881.<sup>1</sup>**

§ 1. **Opening, Improving, etc., Streets, etc.: Taxation for.**—SECTION 1. *Be it enacted, etc.,* That section seven of chapter two of said act to which this is amendatory<sup>2</sup> be amended to read as follows: The city of Dayton shall have power to provide for clearing, opening, graveling, improving and repairing streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, and from any cross or sidewalk; also to regulate cellar ways, cellar lights and sidewalks within the city, and to provide for cleaning the streets and for constructing sewers, and cleaning and repairing the same; and shall have power to assess, levy and collect a special tax on property of not less than two nor more than six mills on every dollar's worth of taxable property within the corporate limits of the city; also a road poll tax of not less than four (4) nor more than six (6) dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except active or exempt firemen and persons that are a public charge, which taxes shall be expended for the purposes specified in this section, and there shall not be levied or collected by the county of Columbia, or the officers thereof, any road tax or any road poll tax upon the property or inhabitants within the city. All road poll taxes levied and assessed by the city shall be collected and expended by and under supervision of the street commissioner of the city, and if the same are not duly paid in accordance with the laws of the city, he may maintain an action in the proper court in his own name to collect the same, and any judgment obtained by him in pursuance of such authority may be enforced as any judgment in civil actions is enforced.

§ 2. **Incidental Powers of Government.**—That section 24 of said chapter be amended so as to read as follows: \* \* \*

§ 3. **Street Improvements.**—That chapter 10<sup>4</sup> of said act be amended so as to read as follows:

CHAPTER X.

**Method of Making Estimates.**—SEC. 76. The city council, whenever it deems it expedient to establish or alter the grade of any street or alley of the city, or to make any improvements thereof, as authorized by sections five, six, seven, eight, nine and ten of this act, shall cause a survey, diagram and estimate of the cost thereof to be made by the street commissioner, and the said survey, diagram and estimate shall be filed in the office of the city clerk for the inspection of all persons interested therein.

**Establishing Grade.**—SEC. 77. The city council shall, at its first meeting thereafter, establish the grade in accordance with said survey and diagram and proceed to make the proposed improvements.

**Appraisement and Assessment of Abutting Property.**—SEC. 78. In all cases when the council shall, by ordinance, order the improvement of

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 131.)

<sup>2</sup> See No. 725, § 7, *supra*.

<sup>3</sup> See *ibid.*, § 17. The amendment does not change said "Section 24," as the same is given in No. 725.

<sup>4</sup> See *ibid.*, §§ 24 to 40, inclusive.

any street or alley, or the alteration of the grade of any street or alley, and the cost thereof has been duly estimated, as herein provided, they shall cause an appraisement of the lots and land abutting on said street adjacent to said improvement and assessable for the costs thereof, as follows: An assessor shall be appointed by the council and sworn to appraise all lots and parts of lots and lands, irrespective of the improvements or structures thereon, and the whole cost of said grade, planking, graveling and other improvements shall be assessed *pro rata* on said lots or parts thereof and lands as aforesaid, according to the assessed value thereof, which apportionment shall be made by the city council by ordinance, and a tabulated statement thereof shall be made out by the city clerk and filed in his office for the information of all persons concerned, and a notice thereof published in the newspaper doing the city printing for two weeks. Such statement shall show the name of the owner of each lot, if known, the number and frontage of each lot, part of lot or other land; the number of the block, if numbered, and the value of such lots, parts of lots and other land, respectively.

**Time of Making Improvement.**—SEC. 79. The making of any such improvements as are specified in said sections five, six, seven, eight, nine and ten shall be proceeded with immediately after the said survey and diagram shall have been approved by the city council, and shall not be postponed by or be dependent upon the time of making said assessment.<sup>5</sup>

\* \* \* \* \*

<sup>5</sup> Secs. 81 to 94, inclusive, of chapter 10 of this No. are *verbatim* as §§ 28 to 40, inclusive, of No. 725, *supra*.

## CHAPTER VII.—CITY OF ELLENSBURGH.

### No. 727.—AN ACT TO INCORPORATE THE CITY OF ELLENSBURGH.<sup>1</sup>

#### CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the corporate limits of the city of Ellensburg, and boundaries thereof, shall be as follows: Beginning at the northeast corner of section 2, in township 17, north of range 18, east, Willamette meridian; thence south two hundred and forty rods; thence west one hundred and sixty rods; thence north two hundred and forty rods; thence east one hundred and sixty rods, to the place of beginning, all being situated in the county of Kittitas and Territory of Washington.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Ellensburg, within the limits above described, shall be and they are hereby constituted a body politic and corporate in fact and in law, by the name and style of the "City of Ellensburg," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and in all actions, suits or proceedings whatsoever, may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city, and they shall have and use a common seal, and may alter and amend the same at pleasure.

\* \* \* \* \*

<sup>1</sup> Passed the house Nov. 21, 1883; passed the council Nov. 26, 1883. (See Ninth Bien. Sess. 1883, p. 156.) This No., after the two sections above given, is *verbatim* as No. 725, *supra*, after § 2 of said No. except wherever the words "the city of Dayton" appear read

"the city of Ellensburg," and wherever the words "county of Columbia" appear read "county of Kittitas," and §§ 3, 5, 6 at 2 instead of "Dayton has" read "Ellensburg shall have," and § 3 at 3 instead of "general municipal purposes" read "general and municipal purposes," and at 4 instead of "one-half per centum" read "one-half of one per centum," and at 5 instead of "within the city" read "within the city limits," and § 4 at 6 instead of "fire departments" read "a fire department," and § 5 at 7 instead of "lands" read "land," and at 8 omit "commons," and at 9 instead of "any year" read "any one year," and § 11 at 10 instead of "five sevenths" read "three-fourths," and § 15 at 11 instead of "such person" read "such person, persons," etc., and § 29 at 12 omit "duly," and § 51 at 13 instead of "or any person" read "or by any person," and § 53 at 14 omit "also;" omit §§ 49, 61, 62, 63, and instead of § 64 read: "This act to take effect and be in force from and after the first day of January, 1884, after its passage and approval."

**No 728.—AN ACT TO INCORPORATE THE CITY OF ELLENSBURGH AND TO DEFINE THE POWERS AND BOUNDARIES THEREOF.<sup>1</sup>**

**CHAPTER I.**

§ 1. **General Powers.**—*Be it enacted, etc.* SECTION 1. That the inhabitants of the town of Ellensburg, Kittitas county, Washington Territory, within the metes and bounds hereinafter prescribed, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Ellensburg," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all suits and actions whatsoever; may purchase and acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; and they shall have and use a common seal and may alter and amend the same at pleasure.

§ 2. **Boundaries.**—SEC. 2. The corporate limits of said city of Ellensburg shall be as follows: Commence at the northwest corner of section two (2), township seventeen (17) north, range eighteen (18) east of the Willamette meridian, running thence due north one-fourth of a mile to the northwest corner of the southwest quarter ( $\frac{1}{4}$ ) of the southwest quarter ( $\frac{1}{4}$ ) of section thirty-five (35), township eighteen (18) north, range eighteen (18) east; thence running due east one and one-fourth miles to the northeast corner of the southwest quarter ( $\frac{1}{4}$ ) of the southwest quarter ( $\frac{1}{4}$ ) of section thirty-six (36), township eighteen (18) north, range eighteen (18) east; thence running due south one mile to the southeast corner of the northwest quarter ( $\frac{1}{4}$ ) of the southwest quarter ( $\frac{1}{4}$ ), section one (1), township seventeen (17) north, range eighteen (18) east; thence due west one mile to the southwest corner of the northeast quarter ( $\frac{1}{4}$ ) of the southwest quarter ( $\frac{1}{4}$ ) of section two (2), township seventeen (17) north, range eighteen (18) east; thence due north one-fourth of a mile to the northwest corner of the northeast quarter of the southwest quarter ( $\frac{1}{4}$ ) of said section two; thence due west one-fourth of a mile to the southwest corner of the northwest quarter ( $\frac{1}{4}$ ) of said section (2); thence due north one-half mile, to the place of beginning.

**CHAPTER II.**

§ 3. **General Powers of Taxation.**—SECTION 1. The city of Ellensburg shall have power to assess, levy and collect taxes for general and municipal purposes not to exceed three mills per annum upon all property, both real and personal, within the city limits, which is by law taxable for territorial and county purposes: *Provided however,* That the indebtedness of the city must never exceed in the aggregate the sum of two thousand dollars (\$2,000), and any debt or liability incurred in excess of said sum of two thousand dollars shall be invalid and void.

\* \* \* \* \*

§ 4. **Appropriation of Private Property for Streets, etc.—Conveyances.**—SEC. 3. The city of Ellensburg shall have power to purchase or

<sup>1</sup>Approved Jan. 29, 1886. (See Tenth Bien. Sess. 1885-86, p. 395.) In effect from date.



condemn and enter upon and take any lands within or purchase any land without its territorial limits for public squares, streets, parks, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon. The city shall have entire control of such buildings, and all lands purchased or condemned under the provisions of this section, and of all streets, alleys, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power, in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall vest in the purchaser all the right, title and interest of the city therein.

\* \* \* \* \*

**§ 5. Opening, Improving, etc., Streets, etc.: Taxation for.**—SEC. 5. The city of Ellensburg shall have power to provide for clearing, opening, grading, graveling, guttering, improving and repairing streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, and from any side or crosswalk; also to regulate cellarways, cellar lights and sidewalks within the city, and to provide for cleaning the streets; for constructing sewers and cleaning and repairing the same; and shall have power to assess, levy and collect each year a road poll tax of not less than four nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except active or exempt firemen and persons that are a public charge; and there shall not be levied or collected by the county of Kittitas or the officers thereof any road tax or road poll tax upon the property or inhabitants within the city of Ellensburg.

**§ 6. Removal of Certain Nuisances: Assessment and Collection of Expense.**—SEC. 6. The city of Ellensburg shall have power to cause any lot of land within the city limits on which water at any time becomes stagnant, to be drained or filled up, and to cause any vault upon any lot or block within the city to be cleaned when necessary, and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council with reference to such matters after such notice as in such ordinance or resolution may be prescribed, the work necessary may be done at the expense of the city, and the amount so expended shall be recovered against the owner of said property by an action at law as for debt.

**§ 7. Establishing Grade of Streets, etc.**—SEC. 7. The city of Ellensburg shall have power to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and of establishing the grades of all streets within the city limits, and to lay off, widen, straighten, name, change, extend, vacate and establish streets, highways, alleys, and all public grounds, and to provide for the condemnation of, such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvements authorized by this section.

\* \* \* \* \*

**§ 8. May Adopt Proper Ordinances.**—SEC. 17. The city of Ellensburg shall have power to adopt proper ordinances for the government of the city and to carry into effect the powers given by this act, \* \* \*

**§ 9. Incidental Powers.**—SEC. 18. The city of Ellensburg shall \* \* \* have such other powers and privileges, not here specifically enumerated, as are incident to municipal corporations of like character and degree not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act according to the true intent and meaning thereof; \* \* \*

§ 10. **Constructing, etc., Sidewalks, and Paving, etc., Streets, etc.: Taxation for.**—SEC. 19. The city of Ellensburg shall have power to construct and repair sidewalks and curb, pave, grade, bridge and gutter any street or streets, highway or highways, alley or alleys, within the city or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys, or any part thereof, sufficient to pay the expense of construction of said sidewalks and graveling, grading, paving or bridging said streets and alleys, and for that purpose may establish assessment districts, consisting of the whole or any portion of such street or streets, highway or highways, alley or alleys, as may be deemed advisable; but unless the owners of more than one-half the property subject to assessment for such improvements petition the council to make the same, such improvements shall not be made until all the members of the council present, by vote, authorize the making of the same.

\* \* \* \* \*

§ 11. **Erection, etc., of Water Works.**—SEC. 21. The city of Ellensburg shall have power to erect and maintain water works, or to authorize the construction of the same, for the purpose of furnishing the city with a sufficient supply of water, but no such works shall be erected by the city until two-thirds of the qualified voters of the city at a general or special election shall, by vote, assent thereto.

§ 12. **May Authorize Construction of Water Works.**—SEC. 22. The city of Ellensburg shall have power to construct or authorize the construction of such water works as may be necessary for the city, and for the purpose of maintaining and protecting the same from injury and the water from pollution, may pass the necessary ordinances therefor.

§ 13. **Separate School District.**—SEC. 23. The city of Ellensburg, together with the territory now comprised in school district No. three (3) of Kittitas county, Washington Territory, shall constitute a school district, \* \* \* and the general school law applicable to school districts in incorporated towns, except as herein provided, shall apply to school districts.

#### CHAPTER III.

§ 14. **Government.**—SECTION 1. The power and authority given to the city of Ellensburg by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned, or may be created under its authority.

\* \* \* \* \*

§ 15. **Officers.**—SEC. 7. There shall be elected \* \* \* a city clerk, city treasurer, \* \* \* city assessor and street commissioners and city surveyor, who shall be officers of the municipal corporation.

\* \* \* \* \*

#### CHAPTER VI.

§ 16. **Powers of the Council.**—SECTION 1. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein or by some ordinances of the city conferred on some other officers.

\* \* \* \* \*

§ 17. **Equalization of Taxes.**—SEC. 5. The common council shall have power to equalize taxes upon the assessment roll of the city at any time prior to the day fixed for taxes becoming delinquent: *Provided*, That ten days' notice by publication or written or personal service shall be given to any person whose name it is proposed to add to the list, or to any person whose assessment it is proposed to increase, citing him to come forward and show cause, if any there be, why such action shall not be taken by said common council.

\* \* \* \* \*

§ 18. **Duties of Marshal.**—SEC. 23. The city marshal shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the city treasurer monthly, taking duplicate receipts, one of which he shall file with the city clerk.

\* \* \* \* \*

§ 19. **Duties of Assessor.**—SEC. 26. The city clerk may be appointed city assessor, whose duty it shall be to annually make a correct list of all the property within the corporate limits of the city subject to taxation by the city, with the valuation thereof, and certify and return the same to the council on or before the first meeting of the council in April of each year: *Provided, however,* That such certificate and return shall be made to the city clerk, unless said clerk be acting city assessor: *And provided further,* That such list of property and valuation may be taken from the certified returns of the county assessor, if so prescribed by the council.

§ 20. **Manner of Making Assessment.**—SEC. 27. The assessment must be made on the property and in the manner designated and prescribed by law for assessing property for Territorial and county taxes; but the form of the assessment roll and the rule for ascertaining the ownership of property and in whose name it may be assessed, may be prescribed by ordinance.

\* \* \* \* \*

#### CHAPTER VII.

§ 21. **Rate of Interest on Taxes.**—SECTION 1. Whenever a municipal tax has been levied, as provided in this act, every part thereof shall bear interest at the legal rate from the time it becomes delinquent, and it shall be a lien upon all real estate so taxed from the time of the levy thereof.

§ 22. **When Taxes Delinquent.**—SEC. 2. The common council shall provide by ordinance within what time all taxes shall be paid to the city treasurer, and all taxes not so paid within such time are thereafter delinquent, and must be collected as such.

§ 23. **Return of Roll.**—SEC. 3. Within five days after such taxes have become delinquent the city treasurer shall return the tax roll to the city clerk, designating thereon the taxes remaining unpaid.

§ 24. **Warrant for Collection.**—SEC. 4. The common council shall order the city clerk to deliver the tax roll to the marshal, after annexing thereto a warrant directed to the marshal, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll, in the manner provided by law, and pay the same to the city treasurer, and to return to the city clerk the warrant, with his proceedings endorsed thereon, and the receipt of the treasurer for all moneys collected thereby and paid into the city treasury.

§ 25. **Force and Effect of Warrant.**—SEC. 5. Such warrant for the purpose of collecting such delinquent taxes shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

§ 26. **When Real Property May Be Levied on.**—SEC. 6. If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it may be levied upon any real property of the person, firm or corporation against whom the taxes are levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officers and all expenses of sale.

§ 27. **How Levied if Owner Unknown.**—SEC. 7. In case of delinquent tax levied upon real property in the name of an owner unknown, the warrant shall be executed by levying upon each lot or part thereof, of such property for the tax levied thereon and selling it separately, as pro-

vided by the laws of the Territory regulating the sale of property for taxes, and the certificate of the marshal or person making such sale shall be given to the purchaser as prescribed by said laws.

**§ 28. Manner of Redemption.**—SEC. 8. Real property sold for delinquent taxes within the corporate limits of the city may be redeemed by the owner or his successor in interest, or by any person having a lien or judgment, decree or mortgage on such property, or any part thereof, after the expiration of the time and in the manner prescribed by the laws of the Territory.

**§ 29. In What Case City Shall Purchase.**—SEC. 9. When any land or town lots cannot be sold for the amount of taxes, interest and charges thereon, such land or town lots shall be passed over and re-offered for sale before the close of the sale, and if the same cannot then be sold for the amount such lands or town lots shall be purchased by the city treasurer for the amount due thereon for the city.

**§ 30. Return of Warrant.**—SEC. 10. The common council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant and collected as a part of the tax. The common council may prescribe by ordinance the fees and compensation for collecting delinquent taxes.

**§ 31. Actions Concerning Assessments, etc.: Discretion of Council.**—SEC. 11. In any action, suit or proceeding in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith, shall be presumed to be regular and duly taken, until the contrary is shown; and when any proceeding, matter or thing by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.

**§ 32. What Shall Not be Necessary to Recite in Deed.**—SEC. 12. In making a deed for real property sold for delinquent taxes it shall not be necessary to recite or set forth the proceedings prior to the sale, but it shall be sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city for delinquent taxes, and the amount thereof, together with the date of the sale, and the amount paid therefor by the purchaser. The warrant for the collection of delinquent taxes shall be and run in the name of the city of Ellensburg.

#### CHAPTER VIII.

**§ 33. Ordinances.**—SECTION 1. The style of every ordinance shall be "The city of Ellensburg does ordain as follows." No ordinance shall contain more than one subject, which shall be clearly expressed in the title, and when only a section of an ordinance is repealed, the repealing ordinance shall specify particularly what section is to be repealed by repeating it, but when the whole ordinance is to be repealed, it shall be sufficient to name it by title and number.

\* \* \* \* \*

#### CHAPTER IX.

**§ 34. Notice of Intention to Improve, etc.: Substance and Manner of.**—SECTION 1. The city council, whenever it deems it expedient to establish or alter the grade of any street or alley of the city, or to make any improvement thereof, shall cause a survey, diagram and estimate of the cost thereof to be made by the city surveyor, and the said survey, diagram and estimate shall be filed in the office of the city clerk for the inspection of all persons interested therein, and a notice of the intention to grade, pave

or otherwise improve said street or alley, and the filing of such survey, diagram and estimate shall be given by two weekly publications in the newspaper doing the city business. Such notice must specify the street or part thereof to be improved, or of which the grade is to be altered, and the kind of improvement proposed to be made.

**§ 35. Effect of Remonstrance.**—SEC. 2. If within ten days from the final publication of such notice, two-thirds in number of the persons owning property on said street or alley, and representing one-half the property in said street or alley, shall file with the county clerk a remonstrance against said improvements, grade or alteration, the same shall not be further proceeded with unless all of the council present shall vote therefor.

**§ 36. Effect of Failure to Remonstrate.**—SEC. 3. If no such remonstrance be made and filed as in the last section provided, the council, at its earliest convenience thereafter, and within four months from the publication of such notice, may establish the proposed grade and proceed to make the proposed improvements.

**§ 37. Manner of Appraisement and Assessment of Abutting Property.**—SEC. 4. In all cases when the council shall, by ordinance, order the improvement of any street or alley by the construction of sidewalks or graveling said streets or alleys, and the owner or owners of the property adjacent thereto neglect or refuse to comply with said ordinance within the time fixed by said ordinance, and the cost thereof has been duly estimated by direction of the council, the council shall, before proceeding with the execution of the work, cause an appraisement of the lots and land abutting on said street adjacent to said improvement and assessable for the cost thereof as follows: An assessor shall be appointed by the council and sworn to appraise all lots and parts of lots and lands, irrespective of the improvements or structures thereon, and the whole cost of said planking or graveling shall be assessed *pro rata* on said lots or parts thereof and lands as aforesaid according to the assessed value thereof, which apportionment shall be made by the city council by ordinance, and a tabulated statement thereof shall be made out by the city clerk and filed in his office for the information of all persons concerned, and a notice thereof published in the newspapers doing the city printing for two weeks; such statement shall show the name of the owner of each lot, if known, the number and frontage of each lot, part of a lot or other land, the number of block, if numbered, and the value of such lots, parts of lots and other land, respectively.

\* \* \* \* \*

**§ 38. Lien of Taxes for Improvements: How Acquired and Released.**—SEC. 6. When the tabulated statement, as provided in section four (4) of this chapter, has been approved by the council, the same shall be recorded in the office of the county auditor of the county of Kittitas, in the record of liens on real property, and shall be and remain a lien on the lots, parts of lots and land described therein for the several sums assessed thereon, respectively, and as fast as the said several assessments are paid the city clerk is authorized and required to enter on said county record of said lien a release thereof, which shall be made in the margin of said record opposite the lot or land so released, and the same shall be thereafter discharged from said lien.

**§ 39. Collection of Such Taxes.**—SEC. 7. When the city council shall have duly approved of said assessment and apportion the cost of improvements, they shall by ordinance establish the same and require the payment of said assessment within ten days from the approval thereof, and shall give notice in the newspaper doing the city printing that said assessment is due and payable to the city treasurer. The clerk shall furthermore make out and deliver to the treasurer a copy of said appraisements and



assessment, who shall proceed to collect in the same manner as other city taxes, except as is herein otherwise provided.

**§ 40. Warrant for Collection.**—SEC. 8. If, within ten days after the publication of said last named notice, the sum assessed upon any lot, part of lot or other land is not paid to the treasurer, the city council may at any time thereafter order a warrant for the collection of the same to be issued by the city clerk, directed to the city marshal.

**§ 41. What Warrant Shall Require.**—SEC. 9. Such warrant must require the city marshal to forthwith levy upon the lot, part of lot or other land upon which the assessment is unpaid, and sell the same in the manner provided by law for the sale of real estate for delinquent taxes, and return the proceeds of such sale, less his fees, to the city treasurer and the warrant to the city clerk, with his doings endorsed thereon, together with the receipt of the city treasurer for the proceeds of such sale.

**§ 42. Tax Deed—Limitation of Redemption.**—SEC. 10. The person executing such warrant shall immediately make a certificate of purchase for the property sold to the purchaser, stating therein that the same is made subject to redemption as hereinafter provided. Within three years from the date of sale the owner or his successor in interest, or any person having a lien by judgment, decree or mortgage on property, or any part thereof, separately sold, may redeem the same upon the terms and conditions provided in the next section.

**§ 43. Manner of Redemption.**—SEC. 11. Redemption is made by the payment of the purchase money and twenty per cent. additional, together with the interest upon the purchase money from the date of the sale to the time of payment at legal rate, and the amount of any tax which the purchaser may have paid upon the property, together with interest upon such taxes at the legal rates.

**§ 44. Effect of Redemption.**—SEC. 12. A redemption discharges the property from the effects of the sale, and from the assessments. If made by the owner or his successors in interest, the estate in the property is thereby restored to such owner or successors in interest; but if made by a lien holder, the amount so paid shall form part of his lien and bear the same rate of interest.

**§ 45. Effect of Sale.**—SEC. 13. A sale of real property under the provisions of this chapter conveys to the purchaser (subject to redemption) all the estate or interest therein of the owner, whether known or unknown: *Provided*, That all proceedings therein shall be governed by the provisions of the Code of Washington Territory concerning the sale of real estate, and transfer a title for delinquent taxes.

**§ 46. Fees, etc., to be Collected from Property Assessed.**—SEC. 14. The fees and percentage to be allowed to the person for making the sale of property for delinquent assessments for street improvements, as provided in this chapter, shall be fixed by the council by ordinance, and shall be added to and form a part of such assessments from the time the same becomes delinquent, and shall be collected from the property assessed in the manner as the original assessment, and in no instance shall the city be liable for such percentage, costs or fees.

\* \* \* \* \*

**§ 47. If Sum Assessed Insufficient to Pay Cost, Deficiency Shall be Added.**—SEC. 16. If, upon the completion of any improvement of any street or alley, it is found that the sum assessed therefor is insufficient to defray the costs thereof, the city council must ascertain the deficiency and declare the same by ordinance; and when so declared the city clerk shall give notice thereof, and such deficiency shall be added to the original assessment and collected in the same manner; and when such assessment shall be in excess of the sum required for said improvements, the

same shall be repaid to the parties owning the property or their representatives.

§ 48. **Assessment Districts.**—SEC. 17. For the purpose of making the appraisement specified in section four (4) of this chapter, the city council may establish assessment districts consisting of the whole of any street or streets, or parts thereof, benefited by such improvements.

\* \* \* \* \*

§ 49. **What Tax Deed Shall State.**—SEC. 19. The deed to purchaser must express the true consideration therefor, and the return of the person executing the warrant must specify the amount for which the lot is sold and the name of the purchaser.

§ 50. **Petition for Improvement.**—SEC. 20. No street, alley or highway shall be extended, widened, altered or vacated except on petition to the common council, signed by a majority of the resident owners of real estate within the ward or wards, in or through which such street, alley or highway is proposed to be extended, widened or vacated, or unless at a regular meeting of the council all the members present vote in favor of the same.

§ 51. **Manner of Appropriation in Other Cases.**—SEC. 21. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of the Territory relating to the mode of proceeding to appropriate lands by private corporations.<sup>2</sup>

\* \* \* \* \*

<sup>2</sup> See No. 460, *supra*.

## CHAPTER VIII.—CITY OF GOLDENDALE.

### No. 729.—AN ACT TO INCORPORATE THE CITY OF GOLDENDALE.<sup>1</sup>

#### ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Goldendale shall be bounded as follows, to wit: That portion of land, known and designated upon the surveys of the United States, in the Territory of Washington, as the south half of the southwest quarter of section number sixteen, and the south half of the southeast quarter of section number seventeen, and the northeast quarter of section number twenty, and the northwest quarter of section number twenty-one, the same being in township number four north, of range number sixteen, east of the Willamette meridian.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Goldendale,<sup>2</sup> within the limits above described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Goldendale," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all suits and actions whatsoever; may

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 188.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 732, *infra*.

purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city;\* may lease, sell and dispose of the same, for the benefit of the city; may purchase, acquire, receive and hold real property beyond the limits of the city, to be used for burial purposes; also for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also for workhouses or houses of correction; also for the erection of water works, to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city. And they shall have and use a common seal, and may alter and amend the same, and make a new one at pleasure.

## ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. The government of said city shall be vested in a mayor, a common council consisting of five members, a city marshal and a city recorder, who shall be *ex-officio* city assessor

\* \* \* \* \*

## ARTICLE III.

\* \* \* \* \*

§ 4. **Duties of Assessor.**—SEC. 2. The recorder shall, \* \* \* as *ex-officio* assessor,<sup>4</sup> within such time as shall be by ordinance provided, make out and return to the common council a correct list of all the taxable property within the limits of the city, with the valuation thereof and the names of the persons liable to be taxed therefor. The mode of making out said list, ascertaining the value of the property and collecting the taxes shall, as nearly as may be practicable, be the same as that prescribed by law for assessing and collecting Territorial and county taxes; and he shall, as such assessor,<sup>5</sup> discharge such other duties as may by ordinance be prescribed. \* \* \*

§ 5. **Collector of Taxes.**—SEC. 3. The marshal shall \* \* \* collect city taxes. \* \* \*

\* \* \* \* \*

## ARTICLE VI.

§ 6. **Powers of the Council.**—SECTION 1. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or this Territory. (2) To levy and collect taxes not exceeding one per cent. per annum upon all property made taxable by law for county and Territorial purposes: \* \* \* (14) To remove all obstructions from streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repair of the same, as well as all sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises to clean and remove obstructions from streets, alleys, cross and sidewalks adjoining their property or the premises occupied by them, and to levy a discriminating tax on persons and property particularly benefited by the construction or repair of streets, side and crosswalks, sewers, gutters and drains, either with or without a general tax for general benefit of such works. \* \* \* (19) To prescribe the manner of building party walls and fences. \* \* \* (22) To provide for the collection and receiving, by said city, of all poll taxes, all road taxes and road labor, and the expending and using the same upon the roads and streets of the city, and for this purpose the city shall constitute one road district.

\* \* \* \* \*

## ARTICLE VIII.

\* \* \* \* \*

§ 7. **Right of Repeal.**—SEC. 6. This act may be amended or repealed at the pleasure of the legislature.

\* \* \* \* \*

\* 4 5 6 See No. 732, *infra*.

**No. 730.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF GOLDENDALE," APPROVED NOVEMBER 14, 1879.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That an act entitled "An act to incorporate the city of Goldendale," approved November 14, 1879, be and the same is hereby amended so as to read as follows:<sup>2</sup> \* \* \*

\* \* \*  
<sup>1</sup> Approved November 20, 1881. (See Eighth Blen. Sess. 1881, Spec. Sess., p. 166.) All necessarily conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> The words following are *verbatim* as § 4 of No. 729, except in the first line of said section instead of "The recorder shall," read "The justice of peace shall."

**No. 731.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF GOLDENDALE, APPROVED NOVEMBER 14, 1879," APPROVED NOVEMBER 20, 1881.<sup>1</sup>**

§ 1. **Duties of Assessor.**—*Be it enacted, etc.* SECTION 1. That an act entitled "An act to amend an act entitled an act to incorporate the city of Goldendale, approved November 14, 1879," approved November 20, 1881,<sup>2</sup> be and the same is hereby amended to read as follows: Article III, sec. 2. The justice of the peace \* \* \* shall also (act) as *ex-officio* assessor; within such time as shall be by ordinance provided, make out and return to the common council a correct list of all the taxable property within the limits of the city, with the valuation thereof and the names of the persons liable to be taxed therefor; if the name of the person liable therefor be unknown he may list the property in the name of any person whom he may suppose liable therefor, or he may list it as owner "unknown." The mode of making out said list, ascertaining the value of property and collecting the taxes shall be, as nearly as practicable, the same as that prescribed by law for making out the lists, assessing the value and collecting territorial and county taxes. The assessor shall, at such time as prescribed by the ordinances of this city, make out a list of all persons, with a description and valuation of property, and amount of tax assessed to each person who shall have failed to pay any city, road poll, or other tax assessed against him within the time prescribed by such ordinances, and shall deliver the said list to the city marshal, who shall at once proceed to collect such delinquent taxes by levy and sale of such property, real or personal of such persons so delinquent, or sufficient thereof to pay all taxes then due and unpaid, and penalties, costs and expenses. The marshal shall give notice of and conduct such sale in the manner similar to that required by law of the sheriff in sale of property for delinquent territorial and county taxes. Every tax assessed by the city shall have the effect of a judgment against the person and shall be a lien from the time of assessment upon all the real property of such person located within the limits of said city. All real estate sold by the marshal for delinquent taxes shall be subject to redemption in the same manner as lands sold by the various counties of the territory for non-payment of taxes. The justice of the peace shall also, as such assessor, discharge such other duties as may by ordinance be prescribed. He shall also, as *ex-officio* clerk, be the custodian of the records and seal of the city and shall authenticate its public acts. He shall attend the meetings of the common council and shall keep a correct journal of the proceedings thereof, and shall generally do and perform such duties as may by ordinance be prescribed.

\* \* \*  
<sup>1</sup> Approved January 29, 1886. (See Tenth Blen. Sess. 1885-86, p. 447.) "All acts and parts of acts in so far as the provisions thereof conflict with this act" are repealed. In effect from date.

<sup>2</sup> See No. 729, *supra*.

## CHAPTER IX.—CITY OF KALAMA.

No. 732.—AN ACT TO INCORPORATE THE CITY OF KALAMA.<sup>1</sup>

## ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the city of Kalama shall be bounded as follows, to wit: That portion of land known and designated upon the surveys of the United States in the Territory of Washington as sections five, six, seven, eight, seventeen and eighteen, in township six north, range one west, and fractional sections one and twelve in township six north, range two west of the Willamette meridian, excepting, in said section eighteen, Sand Island in the Columbia river.<sup>2</sup>

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 142.) "All acts and parts of acts in any manner conflicting with any of the provisions of this act" are repealed. In effect from date.

<sup>2</sup> This No., after the section here given, is *verbatim* as No. 729, *supra*, except § 2 of said No. at 2 instead of "Goldendale" read "Kalama," and at 3 instead of "the city" read "said city," and instead of § 3 read as follows: "The government of said city shall be vested in a mayor, a common council consisting of five members, who shall be elected by the qualified voters of said city, and shall hold their offices until ten days after the next annual election, and until their successors shall be elected and qualified;" and § 4 at 4 instead of "the recorder shall, \* \* \* as *ex-officio* assessor," read "the assessor shall;" and at 5 instead of "and he shall, as such assessor," read "the assessor shall also."

No. 733.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF KALAMA," APPROVED NOV. 29, 1871.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Road Districts: Collection of Road Taxes.**—SEC. 3. The said city of Kalama shall hereafter constitute one road district, and the mayor and common council shall hereafter exercise sole and exclusive jurisdiction over all public highways, roads, streets, alleys and public grounds within said corporate limits, with the same power and jurisdiction over all roads within said district as is now vested by law in the board of county commissioners, and all road taxes of whatever kind, payable on taxable property within said corporate limits (including delinquent taxes), or payable by persons residing within said city limits, shall be assessed and collected in the manner provided by ordinance of the said mayor and common council, and be expended by them in such manner as they may direct in the laying out, alteration and improvement of public highways, streets, alleys and public grounds within said city limits, and all road labor due in said district, or road labor performed in lieu of the payment of taxes therein, shall be used and expended by the supervisor of said district on the roads, streets, alleys and public grounds in said district, under the general supervision of the mayor and common council, and the road supervisor of said district shall make all the settlements required by law to be made with the mayor and common council of said city.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 14, 1873. (See Fourth Bien. Sess. 1873, p. 533.) All conflicting acts and parts of acts repealed. In effect from date.



**No. 734.—AN ACT TO DISINCORPORATE THE CITY OF KALAMA.<sup>1</sup>**

**§ 1. Time of Disincorporation.**—SECTION 1. *Be it enacted, etc.,* That the city of Kalama, in Cowlitz county, Washington Territory, shall be disincorporated, and the same shall cease to exist as a corporation, from and after the time of depositing the books of record and papers of said corporation in the office of the county auditor of Cowlitz county, as hereinafter provided.

**§ 2. Manner of Payment of Debts.**—SEC. 2. The city council of the said city of Kalama shall, on or before the first day of January, one thousand eight hundred and seventy-eight, provide for the payment of all indebtedness and the discharge of all obligations and liabilities of the corporation, by the sale of the property of said corporation, or by the levy and collection of a sufficient tax for said purpose.

**§ 3. Notice to Be Published.**—SEC. 3. When all debts, liabilities and obligations of said corporation, shall have been paid and discharged, the books of record and papers on file in the office of the clerk of city council of said city shall forthwith be deposited in the office of the auditor of Cowlitz county, there to remain and be preserved for future reference, and notice of the disincorporation of said city shall be given by said auditor by publication thereof in a weekly newspaper of general circulation, in said county.

**§ 4. Disposition of Property.**—SEC. 4. All property of said corporation remaining undisposed of and all moneys of the corporation remaining after the payment of all debts, and the discharge of all liabilities and obligations of the corporation, shall belong to and be transferred to the school district embracing said city of Kalama.

**§ 5. Pending Actions Not Affected.**—SEC. 5. Nothing in this act shall be construed to interfere with, in anywise, any suit at law that may have been instituted against the mayor, city council or other officer or officers of the government of said city of Kalama prior to the passage of this act.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 360.) All conflicting acts and parts of acts repealed.

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**CHAPTER X.—CITY OF LA CONNER.**

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**No. 735.—AN ACT TO INCORPORATE THE CITY OF LA CONNER.<sup>1</sup>**

**ARTICLE I.**

**§ 1. Boundaries—General Powers.**—SECTION 1. *Be it enacted, etc.,* That the city of La Conner shall be bounded as follows, to wit: That portion of land described as follows: All of the plat of the town of La Conner as recorded in the office of the auditor of Whatcom county, together with an addition of six hundred feet on the southern end of said plat of the same width as and extending in the same general direction as said plat; also an addition of sixty rods on the northern end of said plat of the same width as and extending in the same direction as said plat; all of the above described land being and lying in section thirty-six, township thirty-four (34) north, of range two east, in Whatcom county. The inhabitants of the city of La Conner, within the limits above described, shall be and they are hereby constituted a body politic and corporate, in

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<sup>1</sup> Approved Nov. 20, 1883. (See Ninth Blen. Sess. 1883, p. 288.) In effect from date.

fact and in law, by the name and style of the "City of La Conner," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real, personal and mixed for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold real property beyond the city limits to be used for burial purposes, also for the erection of water works to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

ARTICLE II.

§ 2. **Government and Officers.**—SECTION 1. The government of said city shall be vested in a mayor, a common council consisting of five members, a city marshal, a city recorder (the justice of the peace of La Conner precinct to act as city recorder), a city assessor who shall be *ex-officio* clerk of the board of common council, and shall be appointed by the common council, and all the said officers shall hold their offices until ten days after the next annual election, and until their successors shall be elected and qualified.

\* \* \* \* \*

ARTICLE III.

\* \* \* \* \*

§ 3. **Duties of Assessor.**—SEC. 3. The city assessor shall, within such time as is by ordinance provided, make out and return to the council a correct list of all the taxable property within the limits of the city, with the valuation thereof and the names of the persons liable to be taxed therefor. The mode of making out said list, ascertaining the value of the property and collecting the taxes shall as nearly as may be practicable be the same as that prescribed by law for assessing and collecting Territorial and county taxes; and he shall, as such assessor, discharge such other duties as may by ordinance be prescribed. He shall also, as *ex-officio* clerk, be the custodian of the records and seal of the city, and shall authenticate its public acts. He shall also attend the meetings of the council and shall keep a correct journal of the proceedings thereof, and shall generally do and perform such duties as may by ordinance be prescribed.

\* \* \* \* \*

§ 4. **Duty of Treasurer.**—SEC. 5. The city treasurer shall collect city taxes; \* \* \*

\* \* \* \* \*

ARTICLE VI.

§ 5. **Powers of Council.**—SECTION 1. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or this Territory. (2) To levy and collect taxes not exceeding one-half of one per centum per annum upon all property made taxable by law for county and Territorial purposes. \* \* \* (11) To remove all obstructions from the streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repairing of the same, as well as sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises to clear and remove obstructions from cross and side-walks adjoining their property or the premises occupied by them, and to levy a tax on persons and property particularly benefited by the construction and repairs of streets, side and crosswalks, either with or without a general tax, for general benefit of such work. \* \* \* (16) To pro-

vide for the collection and receiving by said city of La Conner of all road poll tax and all road property tax, whether payable in labor or cash, and the expending and using the same upon the roads and streets of the city, and for this purpose the city shall constitute one road district. \* \* \*

\* \* \* \* \*

§ 6. **Style of Ordinances.**—SEC. 4. The style of the city ordinances shall be as follows: "The people of the city of La Conner do ordain as follows:"

\* \* \* \* \*

**No. 7354.**—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF LA CONNER."<sup>1</sup>

§ 1. *Be it enacted, etc.* SECTION 1. That an act entitled "An act to incorporate the city of La Conner," approved November 20, 1883,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 6, 1886. (See Tenth Bien. Sess. 1885-86, p. 449.) In effect from date.

<sup>2</sup> See No. 735, *supra*.

CHAPTER XI.—CITY OF MONTESANO.

**No. 736.**—AN ACT TO INCORPORATE THE CITY OF MONTESANO.<sup>1</sup>

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Montesano shall be bounded as follows, to wit: Beginning at a point on the meander line of the north bank of the Chehalis river due south of the southeast corner of lot one (1) of section eight (8), in township seventeen (17) north, range seven (7) west; thence north to the northeast corner of the S. W.  $\frac{1}{4}$  of the S. W.  $\frac{1}{4}$  of section five (5); thence west to the west boundary of said township; thence south on said line 240 rods; thence east to the northeast corner of the N. E.  $\frac{1}{4}$  of the S. W.  $\frac{1}{4}$  of section seven (7); thence south eighty rods; thence east eighty rods; thence south to the meandered line of the north bank of the Chehalis river; thence easterly on said meandered line to the place of beginning, all in township 17 north, range 7 west.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Montesano, within the limits above described shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Montesano," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold real property beyond the limits of the city, to be used for burial purposes; also for the establishment of hospitals for the reception of persons affected with contagious or other diseases; also for workhouses or houses of correction; also for the

<sup>1</sup> Approved Nov. 26, 1883. (See Ninth Bien. Sess. 1883, p. 263.) "All acts and parts of acts in any manner conflicting with any of the provisions of this act" are repealed. In effect from date.

erection of water works to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

#### ARTICLE II.

§ 3. **Government.**—SECTION 1. The government of said city shall be vested in a mayor, a common council consisting of four members, who shall be elected by the qualified voters of said city, and shall hold their offices until ten days after the next annual election, or until their successors shall be elected and qualified.

§ 4. **Officers.**—SEC. 2. There shall also be a city marshal, city assessor, city treasurer and city clerk. \* \* \*

\* \* \*

#### ARTICLE III.

\* \* \*

§ 5. **Duties of Marshal.**—SEC. 3. The marshal shall \* \* \* collect city taxes; \* \* \*

§ 6. **Duties of Assessor.**—SEC. 4. The assessor shall, within such time as shall by ordinance be provided, make out and return to the common council a correct list of all taxable property within the limits of the city, with the valuation thereof, and the names of the persons liable to be taxed therefor. The mode of making out said list, ascertaining the value of the property and collecting the taxes, shall as nearly as may be practicable be the same as that prescribed by law for assessing and collecting Territorial and county taxes. The assessor shall also discharge such other duties as may by ordinance be prescribed.

\* \* \*

#### ARTICLE VI.

§ 7. **Powers of the Council.**—SECTION 1. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or this Territory. (2) To levy and collect taxes not exceeding one per centum per annum, upon all property made taxable by law for county and Territorial purposes: *Provided*, That if any person at any time after the annual assessment shall commence the sale or barter of goods, wares or merchandise within said city, such person shall be assessed and pay a tax on said goods, wares and merchandise for the balance of the year, after he shall so commence, proportioned to the amount levied or assessed for city purposes for the year: \* \* \* (15) To remove all obstructions from the streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repairing of the same, as well as sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises to clean and remove obstructions from streets, alleys, cross and sidewalks, adjoining the property or the premises occupied by them, and to levy a discriminating tax on persons and property particularly benefited by the construction and repair of streets, side and crosswalks, sewers, gutters and drains, either with or without a general tax, for general benefit of such works. \* \* \* (20) To prescribe the manner of building party walls and fences. \* \* \* (23) To provide for the collection and receiving by said city of all poll taxes, all road taxes and road labor, and the expending and using the same upon the roads and streets of the city, and for this purpose the city shall constitute one road district. \* \* \*

\* \* \*

§ 8. **Style of Ordinances.**—SEC. 5. The style of the city ordinances shall be as follows: "The people of the city of Montesano do ordain as follows:"

\* \* \*

ARTICLE VIII.

\* \* \* \* \*  
 § 9. **Right of Repeal.**—SEC. 7. This act may be amended or repealed at the pleasure of the legislature.  
 \* \* \* \* \*

**No. 737.—AN ACT TO INCORPORATE THE CITY OF MONTESANO AND TO PARTICULARLY DEFINE THE POWERS THEREOF.<sup>1</sup>**

ARTICLE I.

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. That the city of Montesano shall be bounded as follows, to wit: Beginning at a point on the meandered line of the north bank of the Chehalis river due south of the southeast corner of lot one (1) of section eight (8), in township seventeen (17) north, range seven (7) west; thence north to the northeast corner of the S. W.  $\frac{1}{4}$  of the S. W.  $\frac{1}{4}$  of section five (5); thence west to the west boundary of said township; thence south on said line 240 rods; thence east to the northeast corner of the N. E.  $\frac{1}{4}$  of the S. W.  $\frac{1}{4}$  of section seven (7); thence south eighty rods; thence east eighty rods; thence south to the meandered line of the north bank of the Chehalis river; thence easterly on said meandered line to the place of beginning—all in township 17 north, range 7 west.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Montesano, within the limits above described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Montesano," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold real property beyond the limits of the city to be used for burial purposes; also for the establishment of hospitals for the reception of persons affected with contagious or other diseases, also for work houses, houses of correction; also for the erection of water works to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city; and they shall have and use a common seal and may alter and amend the same and make a new one at pleasure.

CHAPTER II.

§ 3. **General Powers of Taxation.**—SEC. 3. The city of Montesano shall have power to assess, levy and collect taxes for general municipal purposes, not to exceed one per centum per annum upon all property, both real and personal, within the city which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided, but all taxes for general and special municipal purposes shall not exceed in any one year one and one-half per centum on the property assessed: *Provided, however,* That the above limitations shall not apply to local assessments in assessment districts.

§ 4. **Protection from Fire: Taxation for.**—SEC. 4. The city of Montesano shall have power to make regulations for prevention of accidents

<sup>1</sup> Approved Jan. 20, 1886. (See Tenth Bien. Sess. 1885-86, p. 350.) In effect from date.



by fire, to organize and establish fire departments, and shall have control thereof and ordain rules for the government of the same; to provide fire engines and other apparatus, and a sufficient supply of water; and to levy and collect special taxes for these purposes, not to exceed in any year three-tenths of one per centum upon the taxable property within the city:

\* \* \*

§ 5. **Regulation and Control of Additions to the City.**—SEC. 5. The city of Montesano may regulate and provide as to the manner in which all lands and additions to the city shall be subdivided into lots, blocks, streets and alleys, and the width, distance apart and direction of each street and alley, and the manner in which a plat shall be made thereof, and where filed, and the kind of monuments in all parts of the city, and place and manner of erection and maintenance thereof, to prevent mistakes and confusion of boundaries, and may cause an official map of said city to be made and kept for public inspection, which plat, certified by the city surveyor, shall be *prima facie* evidence that the lines, as they thereon appear, are correct, and all surveys made by the city surveyor, whether at the instance and expense of the city or private parties, shall be official surveys, and a minute thereof shall be kept by the city surveyor as a part of his official records, and shall be *prima facie* evidence of their own correctness, and the city has power to enforce this by ordinance, and to compel the establishment and maintenance of such monument, and to fine and imprison, or both, for a violation thereof, and when the boundary or existence of any public street, alley, easement or square is in doubt, and the land claimed by a private party, the city may file a bill in equity to determine the right thereto.

§ 6. **Appropriation of Private Property for Streets, etc.: Taxation for.**—SEC. 6. The city of Montesano has power to purchase or condemn and enter upon and take any lands within or without its territorial limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for work houses or houses of correction, or any other proper or legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes, not exceeding one-fifth of one per cent. in any one year. The city shall have entire control of such building, and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power to regulate and improve the same, and in case such lands are deemed unsuitable or insufficient for the purpose intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city or the public existing prior to such conveyance, but when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

§ 7. **Lighting Streets, etc.: Taxation for.**—SEC. 7. The city of Montesano has power to provide for the lighting of the streets and furnishing the city with lights, and for the erection or construction of such works as may be necessary and convenient therefor, and has power to levy and collect for these objects a special tax, not exceeding one-fifth of one per centum per annum, upon the taxable property within the limits of the city for the benefit of such lights.

§ 8. **Opening, etc., Streets, etc.: Taxation for.**—SEC. 8. The city of Montesano shall have power to provide for clearing, opening, vacating, graveling, improving and repairing of streets, highways and alleys, to gutter the same and to construct and repair sidewalks and build bridges, and for prevention and removal of all obstructions therefrom or from any

cross or sidewalks, also to regulate cellarways and cellar lights or sidewalks within the city, and to provide for cleaning the streets and establishing the grade thereof; also for constructing sewers and cleaning and repairing the same, and have power to assess, levy and collect each year a road poll tax of not less nor more than four dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except actual and exempt members of the fire department, and except persons that are a public charge; also a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the city, which taxes shall be expended for the purposes specified in this section, and for this purpose the city of Montesano shall constitute one road district, and there shall not be levied or collected by the county of Chehalis or the officers thereof any road tax or road poll tax upon the property or inhabitants within said city.

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§ 9. **Water, Railway and Other Companies.**—SEC. 10. The city of Montesano is hereby authorized to grant the right to use the streets of said city for the purposes of laying gas and other pipes intended to furnish the inhabitants of said city with light or water, to any person, or association of persons, for a term not exceeding twenty-five years, and to authorize or forbid the location and lying down of tracks for railways and street railways, telegraph or telephone appliances, on all streets, alleys and public places; but no railway track can thus be located and laid down until after the injury to streets, alleys and property abutting upon the streets, alley or public place upon which such track is proposed to be located and laid down, has been ascertained and compensated in the manner provided for compensation of injuries arising from re-grade of streets in section 100 of this act: *Provided always*, That none of the rights or privileges herein granted shall be exclusive, nor prevent the council from granting the same rights to others.

§ 10. **Erection, etc., of Water Works.**—SEC. 11. The city of Montesano shall have power to erect and maintain water works within or without the city limits, or to authorize the erection of the same for the purpose of furnishing the city or the inhabitants thereof with a sufficient supply of water, and for the purpose of maintaining and protecting the same from injury, and the water from pollution, its jurisdiction shall extend over the territory occupied by such works and reservoirs, streams, springs, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream and source from which the water is taken for five miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect; but no water works shall be erected by the city until a majority of the voters, who shall be those only who are freeholders in the city or pay a property tax therein on not less than five hundred dollars' worth of property, shall at a general or special election vote for the same. Such proposition shall be formulated and submitted not less than thirty days before election.

§ 11. **Appropriation of Private Property for Water Works.**—SEC. 12. Said city is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works, and shall have power to purchase or condemn water works already erected or which may be erected, and may mortgage or hypothecate the same to secure the persons from whom the same may be purchased the payment of the purchase price thereof. Said city shall have power to regulate and sell the water thus brought therein, and the moneys arising therefrom shall constitute a fund to be used to defray the expenses of operating the same, and to pay the purchase price thereof, and said city may levy and collect a special tax each year until the necessity therefor ceases to exist, not to exceed two-

tenths of one per centum: *Provided, however,* No such tax list shall be levied or collected until the question has been submitted as provided in section eleven (11) of this act, to electors as therein named. and a majority thereof at any annual or special election shall favor the same.

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§ 12. **May Adopt Proper Ordinances.**—SEC. 21. The city of Montesano shall have power to adopt proper ordinances for the government of the city, and to carry into effect the powers given by this act, \* \* \*

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#### CHAPTER III.

§ 13. **Government.**—SEC. 23. The powers and authority hereby given to the city of Montesano by this act shall be vested in a mayor and council, together with such other officers as are in this act mentioned or may be created under its authority.

\* \* \* \* \*

§ 14. **Officers.**—SEC. 26. There shall be elected, \* \* \* marshal, clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner, assessor, \* \* \* and such other officers as may become necessary for the due execution of the powers herein conferred.

\* \* \* \* \*

#### CHAPTER VI:

§ 15. **General Powers of the Council.**—SEC. 42. The city council shall possess all the legislative powers granted by this act; shall be a board for the equalization of city taxes, and shall have all other corporate powers of the city not herein or by some ordinances of the city conferred on some other officer, and shall have the same powers and duties with reference to city assessment and taxes as those prescribed by existing law for the government of the board of county commissioners in the matter of county assessments and taxes.

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#### CHAPTER VIII.

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§ 16. **Duties of Assessor.**—SEC. 63. The assessor must annually make a correct list of all property subject to taxation by the city, with the valuation thereof, and perform the same duties as to the assessment and collection of city taxes as are prescribed by existing laws as the duties of the county assessor in the assessment and collection of county taxes.

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§ 17. **Duties of Marshal.**—SEC. 65. The marshal is peace officer, and *ex-officio* chief of the police and collector of delinquent taxes, \* \* \*

\* \* \* \* \*

#### CHAPTER IX.

§ 18. **Ordinances.**—SEC. 72. The style of every ordinance shall be "The people of the city of Montesano do ordain as follows." No ordinance shall contain more than one subject, which shall be clearly expressed in the title, and when only a section of an ordinance is repealed, the repealing ordinance shall specify particularly what section is to be repealed by repealing<sup>2</sup> it; but when the whole ordinance is to be repealed, it shall be sufficient to name it by title and number.

\* \* \* \* \*

<sup>2</sup> Repeating.

CHAPTER X.

§ 19. **Assessment Districts for Improving Streets, etc.**—SEC. 75. The city of Montesano shall have power to establish assessment districts therein and change the same at pleasure, to make any improvement, including opening, cleaning, sprinkling and lighting streets, alleys and public grounds, building and repairing bridges, protecting property from floods and abating nuisances, and may raise the necessary means therefor as provided in this chapter: *Provided*, That when the council deem such proposed improvements, though specially beneficial to the assessment district is also of great benefit to the whole city, it may contribute from any fund of the city applicable such amount as it may deem just: *And provided further*, When the council deem the proposed improvement not local in benefits but of general benefit to the whole city it may make appropriations from any fund of the city applicable thereto to pay for the whole thereof.

§ 20. **Formation of Assessment Districts.**—SEC. 76. Assessment districts may include such lands as the council may deem benefited by the improvement: *Provided*, That in the case of the improvement of established streets, sidewalks and alleys, it shall include only the land abutting the proposed improvement, and running back therefrom one hundred and twenty feet or less, and no improvement shall be made until the grade shall have been established. In all cases the dimensions and locality of the district shall be according to the discretion of the council, provided it shall always embrace the proposed improvements.

§ 21. **How District Established: Notice of Intention.**—SEC. 77. The ordinances establishing the district shall describe the boundaries thereof and the nature and locality of proposed improvements, which shall be published in the paper doing the city printing, or posted in three conspicuous places in said city for at least two weeks before bids shall be received for the work. After the district has been established, an estimate of the work to be done shall be made, describing the amount of filling and excavation, and a particular description of each part of said work, and when practicable a diagram showing the nature of the work, which shall be filed with the clerk for inspection of the public, and when the same is so filed the clerk shall cause notice of the filing to be published or posted as aforesaid, at least ten days before bids are received for doing the work, and shall publish or post, as a part of said notice, that unless a remonstrance is filed with him within ten days of the publication or posting, signed by the freeholders representing more than one-half the land in the district, bids at the end of said ten days will be received and the contracts to do the work let: *Provided*, That if a petition signed by a majority of said freeholders representing the same amount of land in the district as that in the remonstrance be filed at any time, a new advertisement or posting for bids shall be had, and contracts let in all respects as if the remonstrance had not been filed.

§ 22. **Effect of Remonstrance.**—SEC. 78. If the remonstrance mentioned shall be filed as aforesaid, the proceedings shall stop until said petition shall be filed: *Provided*, That a new district with different limits may be formed for the same purpose and new proceedings had as above prescribed.

§ 23. **Duty of Clerk.**—SEC. 79. When according to the above provisions it becomes lawful to proceed with said improvement and bids have been received therefor, the clerk shall make an abstract from the last annual assessment roll of the city, of all the lands in said district and the values thereof as it so appears, and return the whole proceedings and all the papers to the council.

§ 24. **Levy of Tax for Improvement.**—SEC. 80. Upon the return of said clerk to the council the bids shall be opened, and if the council shall

accept any bid it shall proceed to levy a tax on the land in said district (exclusive of improvement), as it shall appear from said list made from the assessment roll according to the value thereof, sufficient to pay the amount of the accepted bid and the incidental probable expenses.

§ 25. **When Levy Shall be Made.**—SEC. 81. If no bid is accepted, notice shall be published or posted by the clerk as aforesaid, at least five days, that new bids will be received for said work, and when such bids are received and accepted by the council, it shall levy the tax as aforesaid.

\* \* \* \* \*

§ 26. **Fees, etc., to Be Collected as Part of Delinquent Tax.**—SEC. 83. The fees and percentages and penalties for collection of delinquent taxes shall be added to the delinquent tax and collected as a part thereof.

§ 27. **Transcript of Tax Record.**—SEC. 84. As soon as a tax levied becomes delinquent the clerk shall record the same in a book in his office, and shall cause to be filed in the county auditor's office a certified transcript of said exhibit under his seal of office. The county auditor shall file said transcript and record it in a book of liens, indexing the owner or reputed owner as lienor and the city as claimant, for which he shall be entitled to charge the fee of twenty-five cents for each name so indexed; which sum shall be added to said claim, and upon the enforcement of such lien shall be taxed and collected as costs.

§ 28. **Levy of Tax for Deficiency.**—SEC. 85. The funds collected under this chapter shall be kept separate, and if there is any excess thereof it shall be returned to those who paid it, according to their respective interests, and if there is a deficiency, a tax may be levied as above provided to make up such deficiency.

#### CHAPTER XI.

§ 29. **Collection of Delinquent Taxes.**—SEC. 86. The assessment of property, the form of the assessment roll, the rule for ascertaining the ownership of property, and in whose name it may be assessed and the collection of city taxes shall be made in the manner prescribed by existing laws for the assessment and collection of Territorial and county taxes: the time of making assessments, the return of the assessor, the time for levying and collecting the general and special taxes, the time for the equalization of taxes, and when they shall become delinquent, must be prescribed by ordinance. The revised assessment roll shall be the basis of taxation in all assessment districts and the city for the fiscal year.

§ 30. **Redemption: Manner of, etc.**—SEC. 87. The fees and costs, penalties and interest for and in city taxes and for the collection thereof, shall be the same as that prescribed by existing laws for Territorial and county taxes, and effect of sales and deeds and the right of redemption shall be the same: *Provided*, That in the case of road poll tax that if any person shall bring a receipt from the street commissioner of having performed work for the same, then such receipt shall be accepted as payment at the rate of two dollars per day, and the tax collector shall take up such receipt and give a receipt as for cash.

§ 31. **When Taxes Delinquent.**—SEC. 88. And the city council shall have power by ordinance to supplement the present Territorial law as to the time taxes shall be collected, and the time of making return of delinquent rolls by the marshal, and as to the change of the name of county officers to the proper city officers, and any other change which is necessary to make said laws applicable to city and district assessment and taxes.

§ 32. **Rate of Interest on and Lien of Taxes.**—SEC. 89. Whenever any general or special tax has been levied as provided and authorized by this chapter, every part thereof shall bear interest at the legal rate from the time it is due and payable until paid or collected, and shall be a lien from said date upon any real property owned by the party assessed.



§ 33. **Collection of Taxes Heretofore Levied.**—SEC. 90. All the delinquent taxes, general and special and district, assessed and levied and due to the city of Montesano under and by virtue of the original charter shall be collected under and by the provisions of this charter.

CHAPTER XII.

\* \* \* \* \*

§ 34. **Actions Concerning Assessments, etc.—Discretion of Council.**—SEC. 98. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith, shall be presumed to be regular and duly taken until the contrary is shown; and when any proceeding; matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment when exercised or declared is final and cannot be reviewed or called in question elsewhere.

\* \* \* \* \*

§ 35. **Damages for Change of Grade, etc.**—SEC. 100. When the grade or boundaries of any street has been once legally established, such grade or boundary shall not be changed without indemnifying each person injured by such change, and the amount of compensation shall be determined as in other cases when private property is taken for the use of the city, and the city of Montesano may exercise the right of eminent domain to take any private property for any use of the city embraced within any of the objects or purposes of this act.

§ 36. **Manner of Appropriation Private Property.**—SEC. 101. In all cases where private property is condemned or taken for public use, by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.<sup>3</sup>

§ 37. **Vested Rights, etc., Under Former Charter, Respected.**—SEC. 102. All trusts for private persons and all the rights to property vested or existing in the city of Montesano by virtue of any act of the legislative assembly of the Territory of Washington or city organization under the laws thereof and by the acts of congress, are hereby imposed and granted to the city of Montesano created by this act, as the successor thereof, it being the true intent of this and all other acts creating the city of Montesano to continue the existence of the same city as prescribed from time to time by the act incorporating the same, but with additional powers and manner of government.

§ 38. **Certain Ordinances Continued in Force.**—SEC. 103. All ordinances heretofore in force in the city of Montesano, passed concerning the trusts of said city for private parties, are continued in force, and all ordinances passed and in force in said city when this act goes into effect are continued in force until repealed by the city council.

§ 39. **Public Act.**—SEC. 104. This is hereby declared a public act.

§ 40. **Authority Over Additions in City Limits.**—SEC. 105. Whenever an addition to said city shall be platted and recorded in the office of the county auditor of Chehalis county as required by law,<sup>4</sup> then and in that case the city of Montesano shall have power by ordinance to include such addition within the corporate limits thereof: *Provided always*, That said<sup>4</sup> is joined to the already established boundaries of said city.

\* \* \* \* \*

<sup>3</sup> See No. 460, *supra*.

<sup>4</sup> Addition.

§ 41. SEC. 107. All acts and parts of acts relating to the incorporation of Montesano city and not herein reserved are hereby repealed.

\* \* \* \* \*

## CHAPTER XII.—TOWN AND CITY OF OLYMPIA.

### No. 738.—AN ACT TO INCORPORATE THE TOWN OF OLYMPIA.<sup>1</sup>

#### ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the town of Olympia shall be bounded as follows, to wit: Commencing at a point on Budd's Inlet where the northern boundary of section No. 11 intersects the shore; thence along the meandering of the beach southerly to a point of intersection with the bay at the northern boundary of section No. 14; thence east on section line between sections 14 and 11 to the northeast corner of section 14; thence south on section line between sections 13 and 14, and sections 23 and 24; thence west on the southern boundary of sections 22 and 23 to the southwest corner of section 22; thence north on the west boundary of sections 22 and 15 to the northwest corner of section 15; thence east on northern boundary of section 15 to a point of intersection with the western shore of Budd's Inlet; thence northerly along said western shore, following the meandering of the beach to the intersection of the northern boundary of section 10 with the beach; thence east across Budd's Inlet to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said town of Olympia shall be and are hereby constituted a body politic and corporate by the name and style of "The Town of Olympia," and by that name they and their successors shall be known in law and have perpetual succession. sue and be sued, plead and be impleaded, in all courts whatsoever, and receive property, personal and real within said town for public buildings, public works and town improvements, and may dispose of the same in any way for the benefit of the town; may purchase property beyond the limits of the town to be used for burial purposes and for the establishment of a hospital for the reception of persons infected with contagious diseases.

#### ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. For the government of the said town of Olympia there shall be annually elected, in the manner hereinafter provided, the following officers: A board of trustees (consisting of five members), who shall hold their offices for one year or until their successors shall be duly elected and qualified; and there shall be appointed annually by the board of trustees, one town clerk and one town marshal.

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#### ARTICLE IV.

\* \* \* \* \*

§ 4. **Power of Trustees.**—SEC. 4. Said board of trustees shall have full power and authority—(1) To make all needful by-laws, ordinances and town regulations not repugnant to the constitution or laws of the United States and the laws of this Territory. (2) To levy taxes for municipal purposes not to exceed one-half of one per centum per annum

<sup>1</sup> Passed Jan. 28, 1859. (See Sixth Reg. Sess. 1858-9, p. 31.)

upon all taxable property, as is shown by the assessment made for Territorial and county purposes. \* \* \* (6) The roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvement, repair, grading, cleaning, etc., etc., thereof. And for the purposes of this act said town shall not be included in any road district, but the road tax now due by law within said town shall be collected by the town marshal, and laid out and expended by him as directed by ordinance.

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**No. 739.—AN ACT TO AMEND AN ACT ENTITLED “AN ACT TO INCORPORATE THE TOWN OF OLYMPIA.”<sup>1</sup>**

§ 1. **Powers of Trustees.**—SECTION 1. *Be it enacted, etc.,* That the board of trustees of the town of Olympia shall have power to levy taxes for municipal purposes not to exceed two mills per annum upon all taxable property.

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<sup>1</sup> Passed Jan. 10, 1861. (See Eighth Reg. Sess. 1860-61, p. 15.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 740.—AN ACT TO VACATE CERTAIN STREETS AND ALLEYS IN SWAN’S ADDITION TO THE TOWN OF OLYMPIA.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the streets and alleys running north and south through blocks number thirty-six, forty-one, fifty-four, thirty-seven, forty, fifty-five, nine and seventeen, in Swan’s addition to the town of Olympia, be and the same are hereby vacated, so far as they run through said blocks.

<sup>1</sup> Approved Jan. 10, 1867. (See Fourteenth Reg. Sess. 1866-7, p. 176.)

**No. 741.—AN ACT AMENDATORY OF AN ACT ENTITLED “AN ACT TO INCORPORATE THE TOWN OF OLYMPIA.”<sup>1</sup>**

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the town of Olympia shall be bounded as follows, to wit: Commencing at a point on Budd’s Inlet where the northern boundary of section No. 11 intersects the shore; thence along the meanderings of the beach southerly to a point of intersection with the bay at the northern boundary of section No. 14; thence east on section line between sections 14 and 11 to the northeast corner of section 14; thence south on section line between sections 13 and 14 and sections 23 and 24; thence west on the southern boundary of sections 22 and 23 to the southwest corner of section 22; thence north on the west boundary of sections 22 and 15 to the northwest corner of section 15; thence east on northern boundary of section 15 to a point of intersection with the western shore of Budd’s Inlet; thence northerly along said western shore, following the meandering of the beach to the intersection of the northern boundary of section 10 with the beach; thence east across Budd’s Inlet to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said town of Olympia shall be and are hereby constituted a body politic and corporate, by the name and style of the “Town of Olympia,” and by that name they and their successors shall be known in law and have perpetual suc-

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 426.) All conflicting acts and parts of acts are repealed. In effect from date.

cession, sue and be sued, plead and be impleaded in all courts whatsoever, and receive property, personal and real, within said town for public buildings, public works and town improvements, and may dispose of the same in any way for the benefit of the town; may purchase property beyond the limits of the town to be used for burial purposes, and for the establishment of a hospital for the reception of persons infected with contagious diseases.

## ARTICLE II.

**§ 3. Government and Officers.**—SECTION 1. For the government of the said town of Olympia there shall be annually elected, in the manner hereinafter provided, the following officers: A board of trustees (consisting of five members), who shall hold their offices for one year, or until their successors shall be duly elected and qualified; one town treasurer, one town clerk, one town marshal and one town assessor, who shall hold their office for a like term, and until their successors are elected and qualified.

\* \* \* \* \*

## ARTICLE IV.

\* \* \* \* \*

**§ 4. Power of Trustees: Levy, etc., of Taxes—Improvement of Streets, etc.**—SEC. 4. Said board of trustees shall have full power and authority—(1) To make all needful by-laws, ordinances and town regulations not repugnant to the constitution or laws of the United States and the laws of this Territory. (2) To levy taxes for municipal purposes, not to exceed one-half of one per centum per annum upon all taxable property, as is shown by the assessment made for Territorial and county purposes. But this shall not be construed as prohibiting said board from the addition of ten per centum penalty on delinquent taxpayers, or such other penalty as may be prescribed by the laws of the Territory to secure the collection of taxes. Said board shall also regulate by ordinance the time of assessing and collecting said municipal taxes. \* \* \* (5) The roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvement, repair, grading, cleaning, etc., etc., thereof. And for the purposes of this act, said town shall not be included in any road district, but the road tax due by law within said town shall be collected by the town marshal at such times as may be directed by ordinance, and expended under his direction as prescribed by ordinance. \* \* \* (18) To levy and collect each year a special tax, not exceeding one-quarter of one per centum, assessed by authority of the first subdivision of this section, for any specific object within the authority of this municipal corporation; but the ordinance providing therefor must specify the object thereof, and the estimated amount necessary therefor. \* \* \* (21) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks or streets, and to establish the grades of such streets. \* \* \*

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## ARTICLE VI.

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**§ 5. Duties of Treasurer.**—SEC. 6. The assessor must annually make a correct list of all the property subject to taxation in the town of Olympia, with the valuation thereof, and certify and return the same to the clerk of the common council.

**§ 6. Manner of Making Assessment.**—SEC. 8. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes, but the form of the assessment roll and the rule for ascertaining the ownership of property and in whose name it may be assessed, may be prescribed by ordinance, and the time

of making such assessment and the return thereof and of applying to the council for a revision thereof must be prescribed by ordinance.

\* \* \* \* \*

§ 7. **Duties of Marshal.**—SEC. 11. As collector of taxes the marshal shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the treasurer monthly.

\* \* \* \* \*

ARTICLE VIII.

§ 8. **Rate of Interest on Taxes.**—SECTION 1. Whenever any municipal tax has been levied, as provided and authorized, every part thereof shall bear interest at the legal rate from the time it becomes delinquent.<sup>2</sup>

§ 9. **When Taxes Become Delinquent.**—SEC. 2. The board of trustees must provide by ordinance within what time all taxes may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes, and must be collected as such.

§ 10. **Return of Roll.**—SEC. 3. Within five days from the expiration of the time limited for paying taxes to treasurer, the treasurer must return the tax roll to the board, distinguishing thereon the taxes paid and those remaining unpaid.

§ 11. **Warrant for Collection.**—SEC. 4. The board must thereafter order the clerk to deliver the tax roll to the collector, and issue and annex thereto a warrant directed to the collector, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll, in the manner provided by law, and pay the same to the treasurer, and return the warrant with his doings thereon, and the receipt of the treasurer for all moneys collected thereby and paid to the treasurer, to the clerk.

§ 12. **Force and Effect of Warrant.**—SEC. 5. Such warrant, for the purpose of collecting such delinquent taxes, shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner except as in this chapter otherwise provided.

§ 13. **In What Case Real Property May be Levied on.**—SEC. 6. If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it must be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officer, and all expenses of sale and executing the warrant.

§ 14. **Manner of Levy Against Unknown Owner.**—SEC. 7. In case of a delinquent tax levied upon real property in the name of an owner unknown, the warrant shall be executed by levying upon each lot or part thereof of such property for the tax levied thereon, and selling it separately.

§ 15. **Tax Deed: What Shall State.**—SEC. 8. When real property is sold for delinquent taxes, the person executing the warrant must immediately make a deed for such property to the purchaser, stating therein that the same is made subject to redemption, as provided by law, and such sale shall have the effect to convey to the purchaser, subject to redemption as hereinafter provided, all the estate or interest therein of the owner, whether known or unknown, together with all the rights and appurtenances thereunto belonging.

§ 16. **Redemption: Manner and Limitation of.**—SEC. 9. Real property sold for delinquent taxes, as provided in this chapter, may be re-

<sup>2</sup> See No. 745, *infra*.



deemed by the owner or his successor in interest, or by any person having a lien by judgment, decree or mortgage on such property, or any part thereof, separately sold, within three years from the date of the deed therefor, by the payment of the purchase money and twenty-five per cent. addition, together with interest upon the purchase money from the date of sale to the time of payment, at the legal rate, and the amount of any tax which the purchaser may have paid upon the property.

\* \* \* \* \*

§ 17. **Return of Warrant.**—SEC. 11. The board of trustees may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant and collected as a part of the tax. The board of trustees may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the treasury.

\* \* \* \* \*

**No. 742.—AN ACT AMENDATORY OF AN ACT ENTITLED “AN ACT AMENDATORY OF AN ACT ENTITLED AN ACT TO INCORPORATE THE TOWN OF OLYMPIA.”<sup>1</sup>**

**ARTICLE I.**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the town of Olympia shall be bounded as follows, to wit: Commencing at the N. E. corner of section 25, T. 19 N., of R. 2 W., thence S. along the section line six miles to S. E. corner of section 24, T. 18 N., of R. 2 W.; thence west along section lines four miles to S. W. corner of section 21, T. 18 N., of R. 2 W.; thence north along section line to the point on Eld Inlet where said section line intersects the meander line of eastern shore of said inlet; thence along the said meander line to the point where it intersects the N. section line of section 28, T. 19 N., of R. 2 W.; thence east across Budd's Inlet to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said town of Olympia shall be and are hereby constituted a body politic and corporate, by the name and style of the “Town of Olympia,” and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued, plead and be impleaded, in all courts whatsoever, and receive property, personal and real, within said town for public buildings, public works and town improvements, and may dispose of the same in any manner for the benefit of the town; may purchase property beyond the limits of the town to be used for burial purposes, and for the establishment of a hospital for the reception of persons infected with contagious diseases.

\* \* \* \* \*

**ARTICLE III.**

§ 3. **Government.**—SECTION 1. For the government of said town of Olympia, there shall be annually elected, in the manner hereinafter provided, a mayor and six trustees, who shall hold their offices for one year, or until their successors shall be duly elected and qualified.

\* \* \* \* \*

**ARTICLE IV.**

\* \* \* \* \*

§ 4. **Assessor Abolished.**—SEC. 10. The office of town assessor is hereby abolished, and the clerk of the town board shall be *ex-officio* assessor, and shall take his assessment from the county assessment of the

<sup>1</sup>Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 115.) All conflicting acts and parts of acts repealed. In effect from date.

same year; and neither the clerk nor the board of trustees shall have power to raise any assessment above the county assessment of that year.

\* \* \* \* \*

§ 5. **Powers of Trustees.**—SEC. 14. Said board of trustees shall have full power and authority—(1) To make all needful by-laws, ordinances and town regulations not repugnant to the constitution or laws of the United States and the laws of this Territory. (2) To levy taxes for municipal purposes, not to exceed five mills per annum upon all taxable property as is shown by the assessment made for Territorial and county purposes. But this shall not be construed as prohibiting said board from the addition of ten per centum penalty on delinquent taxpayers, or such other penalty as may be prescribed by the laws of the Territory, to secure the collection of taxes. Said board shall also regulate by ordinance the time of assessing and collecting said municipal taxes: *Provided*, That an additional tax of two and one-half mills may be levied in any one year if such tax is voted by a two-thirds vote of the taxpayers of the town, and the board of trustees shall have power to call a special election for that purpose. \* \* \* (5) The roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvement, repair, grading, cleaning, etc., etc., thereof, and for the purposes of this act said town shall not be included in any road district, but the road tax due by law within said town shall be collected by the town marshal at such times as may be directed by ordinance, and expended under his direction, as prescribed by ordinance. \* \* \* (19) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks or streets, and to establish the grades of such streets.

\* \* \* \* \*

# ARTICLE VI.

\* \* \* \* \*

§ 6. **Duties of Marshal.**—SEC. 8. As collector of taxes, the marshal shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the treasurer monthly.<sup>2</sup>

\* \* \* \* \*

<sup>2</sup> The balance of this No. (Art. VII) is *verbatim* as §§ 8 to 17, inclusive, of No. 741, *supra*.

## No. 743.—AN ACT AUTHORIZING THE BOARD OF TRUSTEES OF THE TOWN OF OLYMPIA TO LEVY A SPECIAL TAX.<sup>1</sup>

§ 1. **Trustees May Levy Certain Tax.**—SECTION 1. *Be it enacted, etc.*, That the board of trustees of the town of Olympia be and it is hereby empowered to levy a special tax on all the taxable property within said town, as shown by the assessment made for Territorial and county purposes, for the year 1875, in any sum not exceeding five thousand dollars, to aid in the construction of a wharf, on the west side of Budd's Inlet, suitable for ocean steamers, and of a suitable road to said wharf: *Provided*, That said tax shall not be levied until a proposition therefor shall have been submitted to a vote of the qualified voters of said town, and accepted by a two-thirds vote of all persons voting in such election.

§ 2. **To be Submitted to Vote.**—SEC. 2. Said board is hereby empowered to call a special election, in regard to levying such tax, at such time as it may determine: *Provided*, That public notice of such election shall be given for five days previous thereto, and such notice shall specify the sum for which said tax is to be levied.

§ 3. **Powers of Board.**—SEC. 8. Said board shall regulate the time of assessing and collecting said tax, and shall have the same power in such assessing and collecting that it has in assessing and collecting other municipal taxes.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 9, 1875. (See Fifth Bien. Sess. 1875, p. 199.) In effect from date.

**No. 744.—AN ACT AMENDING THE CHARTER OF THE TOWN OF OLYMPIA.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That section numbered one of article one of the act entitled "An act amendatory of an act entitled an act amendatory to an act entitled an act to incorporate the town of Olympia," approved November 29, 1871,<sup>2</sup> of which this is amendatory, be amended so as to read as follows: The town of Olympia shall be bounded as follows: Commencing at the northeast corner of section two, in township eighteen north, of range two west; thence south along section line to the southeast corner of section twenty-three of said township; thence west along section line to the southwest corner of section twenty-two of said township; thence north along section line to north line of said township; thence east to the place of beginning.

\* \* \* \* \*

§ 2. **Special Levy of Tax.**—SEC. 4. That subdivision two of section fourteen of said article 4<sup>3</sup> be amended by inserting in said subdivision between the words "town" and "and" when they occur in the eleventh line of said subdivision the words "voting at any special election called for that purpose."

§ 3. **Tax Certificate.**—SEC. 5. That sections eight and nine of article seven of the act of which this is amendatory<sup>4</sup> be and they are hereby amended by striking out the word "deed" wherever the same occurs in said sections and inserting the word "certificate" in the place thereof.

§ 4. **Members Shall Not be Interested in Improvements, etc.**—SEC. 6. No member of the board shall be interested directly or indirectly in any property purchased for the use of the town, nor in any purchase or sale of property belonging to the town, nor in any contract made by the board or other person on behalf of the town for the erection of public buildings, the opening or improvements of roads or the building of bridges, wharves or for other purposes.

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Blen. Sess. 1875, p. 173.)

<sup>2</sup> See No. 742, § 1, *supra*.

<sup>3</sup> See *ibid.*, § 5.

<sup>4</sup> See *ibid.*, note 2; see also No. 741, §§ 8 to 17, inclusive, *supra*.

**No. 745.—AN ACT TO INCORPORATE THE TOWN OF OLYMPIA.<sup>1</sup>**

**ARTICLE I.**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the town of Olympia shall be bounded as follows, to wit: Commencing at the northeast corner of section 25, T. 19 N., of R. 2 W.; thence south along the section line 6 miles to S. E. corner of section 24, T. 18 N., of R. 2 W.; thence west along section lines 4 miles to S. W. corner of section 21, T. 18 N., of R. 2 W.; thence north along section line to the point on Eld Inlet where said section line intersects the meander line of eastern shore of said inlet; thence along the said meander line to the point where it intersects the N. section line of section 28, T. 19 N., of R. 2 W.; thence east across Budd's Inlet to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said town of Olympia shall be and are hereby constituted a body politic and corporate, by the name and style of the "Town of Olympia," and by that name they and their successors shall be known in law and have perpetual succession, sue and be sued, plead and be impleaded, in all courts whatsoever, and receive property, personal and real, within said town for public buildings, public

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 339.) In effect from date.

works, and town improvements, and may dispose of the same in any manner for the benefit of the town; may purchase property beyond the limits of the town to be used for burial purposes, and for the establishment of a hospital for the reception of persons infected with contagious diseases.

\* \* \* \* \*

ARTICLE III.

§ 3. **Government and Officers.**—SECTION 1. For the government of the said town of Olympia there shall be annually elected, in the manner hereinafter provided, a mayor and six trustees, and a town clerk, and a marshal(1), who shall hold their offices for one year or until their successors shall be duly elected and qualified: \* \* \*

\* \* \* \* \*

ARTICLE IV.

\* \* \* \* \*

§ 4. **Duties of Assessor.**—SEC. 10. The clerk of the town board shall be *ex-officio* assessor. He shall perform the duties of his office in such manner as may be prescribed by ordinance.

\* \* \* \* \*

§ 5. **Powers of Trustees.**—SEC. 14. Said board of trustees shall have full power and authority—(1) To make all needful by-laws, ordinances and town regulations not repugnant to the constitution or laws of the United States and the laws of [the] this Territory. (2) To levy taxes for municipal purposes, not to exceed four mills on the dollar per annum upon all taxable property, as is shown by the assessment made for Territorial and county purposes. But this shall not be construed as prohibiting said board from the addition of ten per centum penal[i]ty on delinquent taxpayers, or such other penal[i]ty as may be prescribed by the laws of the Territory to secure the collection of taxes. Said board shall also regulate by ordinance the time of assessing and collecting said municipal taxes: *Provided*, That an additional tax of two and one-half mills may be levied in any one year, if such tax is voted by a two-third vote of the taxpayers of the town; and the board of trustees shall have power to call a special election for that purpose. \* \* \* (17) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks or streets, and to establish the grades of such streets. \* \* \* (21) To construct and repair sidewalks, and to levy and collect a special tax or assessment on the lots or parcels of land fronting on the sidewalk constructed or repaired sufficient to pay the expense of constructing or repairing said sidewalk. \* \* \*

\* \* \* \* \*

ARTICLE VI.

\* \* \* \* \*

§ 6. **Duties of Marshal.**—SEC. 8. As collector of taxes the marshal [shall] collect all delinquent taxes and assessments when required by warrant, and pay the same to the treasurer monthly.<sup>2</sup>

\* \* \* \* \*

ARTICLE X.

§ 7. **Control of Streets, etc.: Collection of Road Tax.**—SECTION 1. The roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvement, repair, grading, cleaning, etc., etc., thereof, and for the purposes of this act, said town shall not be included in any road district, but the road tax due by law within said town, shall be collected as provided by ordinance.

<sup>2</sup> Art. VII of this No. is *verbatim* as §§ 8 to 17, inclusive, of No. 741, *supra*, except § 9 of said No. at 2 after "delinquent" read "and it shall be a lien on all real estate so taxed from the time of the levy thereof."

**§ 8. Levy and Collection of Assessment for Construction of Sidewalks, etc.**—SEC. 2. The board of trustees shall have power by ordinance to prescribe the mode in which the charge on the respective owners of lots or lands, and on the lots or lands shall be assessed and determined, for the purpose authorized by section fourteen, sub-division twenty-one of this act; such charge when assessed shall be payable by the owner or owners at the time of the assessment personally, and shall also be a lien upon the respective lots or parcels of land from the time of the assessment. Such charge may be collected and such lien may be enforced by a proceeding in law or in equity, either in the name of the town of Olympia, or of the officer, to whom it shall have directed payment to be made. In any such proceedings it shall be sufficient to declare generally for work and labor done, and materials furnished. In any such proceeding when the court trying the same shall be satisfied that work has been done, or material furnished, judgment shall be rendered in favor of the town of Olympia, or the officer prosecuting therefor, for such sum as may be necessary to defray all costs for labor performed, or material furnished, and all costs notwithstanding any irregularity, informality, or defect in the proceedings of the officers of the city: *Provided*, That whenever the board of trustees shall order any sidewalks to be constructed or repaired, the clerk of the board shall immediately in writing notify the owner of the lot or lots upon [upon] the side of the street, when the sidewalk is so ordered to be built or repaired, of the order made by the trustees; and no assessment or charge of any kind shall be made against any lot or lots when the owner thereof, shall [1], within sixty days after being notified, as herein provided, build or repair the sidewalk in pursuance to the order of the board of trustees, and in the manner provided by ordinance.

**§ 9. Repealing Clause.**—SEC. 3. All acts and parts of acts, upon any subject matter contained in this act, so far as they relate to the incorporation of said town of Olympia, and are inconsistent with the provisions of this act, be and the same are hereby repealed: *Provided*, That rights acquired, taxes levied, and ordinances passed, and now in force under existing laws shall not be affected by anything herein contained.

\* \* \* \* \*

**No. 746.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF OLYMPIA," APPROVED NOVEMBER 9, 1877.<sup>1</sup>**

**§ 1. Boundaries.**—SECTION 1. *Be it enacted, etc.*, That section 1 of article one of the act to which this is amendatory,<sup>2</sup> be amended to read as follows: "Section 1. That the town of Olympia shall be bounded as follows: Commencing at the northwest corner of section 27, township 18 north, range 2 west; thence running north on section line until it intersects the north boundary line of B. F. Brown's donation claim; thence east to intersect the north and south line between sections 1 and 2, township 18 north, range 2 west; thence south to northeast corner of section 26, township 18 north, range 2 west; thence west to place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Blen. Sess. 1879, p. 201.) In effect from date.

<sup>2</sup> See No. 745, § 1, *supra*.

**No. 747.—AN ACT TO INCORPORATE THE CITY OF OLYMPIA.<sup>1</sup>**

CHAPTER I.

**§ 1. Boundaries.**—*Be it enacted, etc.* SECTION 1. That the corporate limits of the city of Olympia, and the boundaries thereof, shall be as fol-

<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Blen. Sess. 1881, p. 51.)



lows: Commencing at the northwest corner of section twenty-seven (27) in township eighteen (18) north, of range No. two (2) west; thence running north on section line until it intersects the north boundary line of Benjamin F. Brown's donation claim; thence east to intersect the north and south line between sections one (1) and two (2) in township eighteen (18) north, of range two (2) west; thence south to the northeast corner of section twenty-six (26) in township eighteen (18) north, of range two (2) west; thence west to the place of beginning. All situate, lying and being in the county of Thurston and Territory of Washington.

**§ 2. General Powers.**—SEC. 2. The inhabitants of the city of Olympia, wherein the limits above described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Olympia," and by that name and style they and their successors shall be known in law, having perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all actions, suits or proceedings whatever, contract and be contracted with, have and use a common seal and alter or change the same at pleasure, receive property, real and personal, within said city, for public buildings, public works and city improvement, and may dispose of the same in any manner, for the benefit of the city, and may purchase property without the limits of the city to be used for burial purposes, or for the establishment of a hospital for the reception of persons infected with contagious diseases.

#### CHAPTER II.

**§ 3. Powers of the Incorporation.**—SEC. 3. The city of Olympia has power—(1) To make all needful by-laws, ordinances and city regulations not repugnant to the constitution or laws of the United States and the laws of this Territory. (2) To levy taxes for municipal purposes, not to exceed four mills on the dollar per annum upon all taxable property as shown by the assessment made for Territorial and county purposes. But this shall not be construed as prohibiting the common council from the addition of ten per centum penalty on delinquent taxpayers, or such other penalty as may be prescribed by the laws of the Territory, to secure the collection of taxes. The common council shall also regulate, by ordinance, the time of assessing and collecting municipal taxes: *Provided*, That an additional tax of two and one-half mills may be levied in any one year, if such tax is voted by a majority of the taxpayers of the city, and the common council shall have power to call a special election for that purpose. \* \* \* (15) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks or streets, and to establish the grades of such streets. \* \* \* (25) To construct and repair sidewalks and to remove obstructions from streets, alleys, sidewalks and sewers; and to levy and collect a special tax or assessments upon all blocks, lots or parcels of land fronting on such streets, alley or sidewalk within the city limits, sufficient to pay the expense of such improvement, or repair or removal of obstructions, and for such purpose may establish districts, consisting of the blocks, lots or parcels of land fronting on the whole or such portion of the street, alley or sidewalk to be made or repaired, as may be deemed advisable. A lot or parcel of land shall be deemed to front on an alley, when such alley runs through it or it shall touch upon such alley. But in no case shall such sidewalk be built and such assessment be made or tax levied to pay therefor, unless a majority of the property owners in such district shall, by petition to the common council, ask for the same, or two-thirds of the members of the common council assent thereto by vote at a regular meeting. \* \* \* (27) To have and exercise such other powers and privileges, not herein specifically enumerated, as are incident to municipal corporations of like character and degree, not inconsistent

with the laws of the United States or of the Territory, and as may be necessary to carry into effect the provisions of this act according to the intent and meaning thereof.

#### CHAPTER III.

\* \* \* \* \*

§ 4. **Government.**—SEC. 4. The power and authority given to the city of Olympia, by this act, shall be vested in a mayor and common council, together with such other officers as are in this act mentioned, or may be created under its authority.

\* \* \* \* \*

§ 5. **Officers.**—SEC. 8. There shall be elected, \* \* \* city clerk, city marshal and city treasurer, who shall be officers of the municipal corporation. \* \* \*

#### CHAPTER V.

§ 6. **General Powers of the Council.**—SEC. 20. The common council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein, or by some ordinance of the city conferred on some other officer.

\* \* \* \* \*

§ 7. **Duties of Assessor.**—SEC. 35. The city clerk \* \* \* shall be *ex-officio* assessor, and, as assessor, shall prepare the assessment roll from the county assessment roll, and perform all duties connected with such office, and shall perform all such other duties connected with his office as city clerk, or city assessor, as may be prescribed by ordinance.

\* \* \* \* \*

§ 8. **Duties of Marshal.**—SEC. 48. The city marshal shall be *ex-officio* tax collector, and shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the city treasurer monthly, taking duplicate receipts, one of which he shall file with the city clerk.

#### CHAPTER VII.

§ 9. **Rate of Interest on Taxes.**—SEC. 52. Whenever a municipal tax has been levied as provided in this act, every part thereof shall bear interest at the legal rate from the time it becomes delinquent, and it shall be a lien upon all real estate so taxed from the time of the levy thereof.

§ 10. **When Taxes Become Delinquent.**—SEC. 53. The common council shall provide by ordinance within what time all taxes shall be paid to the city treasurer, and all taxes not so paid within such time are thereafter delinquent, and must be collected as such.

§ 11. **Return of Roll.**—SEC. 54. Within five days after such taxes have become delinquent the city treasurer shall return the tax roll to the common council, designating thereon the taxes remaining unpaid.

§ 12. **Warrant for Collection.**—SEC. 55. The common council shall order the city clerk to deliver the tax roll to the marshal, after annexing thereto a warrant, directed to the marshal, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll in the manner provided by law, and pay the same to the city treasury, and return to the city clerk the warrant, with his proceedings endorsed thereon, and the receipt of the treasurer for all moneys collected thereby and paid into the city treasury.

§ 13. **Force and Effect of Warrant.**—SEC. 56. Such warrant, for the purposes of collecting such delinquent taxes, shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

§ 14. **In What Case Real Property May be Levied on.**—SEC. 57. If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it may be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officers and all expenses of sale.

§ 15. **Manner of Levy Against Unknown Owner.**—SEC. 58. In case of a delinquent tax levied upon real property in the name of an owner unknown, the warrant shall be executed by levying upon each lot, or part thereof, of such property for the tax levied thereon, and selling it separately, as provided by the laws of the Territory regulating the sale of property for taxes, and the certificate of the marshal or person making such sale shall be given to the purchaser, as prescribed by said laws.

§ 16. **Tax Deed: What Shall State.**—SEC. 59. Real property sold for delinquent taxes within the corporate limits of the city may be redeemed by the owner or his successor in interest, or by any person having a lien or judgment, decree or mortgage on such property, or any part thereof, after the expiration of the time and in the manner prescribed by the laws aforesaid.

§ 17. **In What Case City May Purchase.**—SEC. 60. When any land or town lots cannot be sold for the amount of taxes, interest and charges thereon, such lands or town lots shall be passed over and reoffered for sale before the close of sale, and if the same cannot then be sold for the amount, such lands or town lots shall be purchased by the city treasurer, for the amount due thereon, for the city.

§ 18. **Return of Warrant.**—SEC. 61. The common council may provide, by ordinance, within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes, not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant and collected as a part of the tax. The common council may prescribe by ordinance the fees and compensation for collecting delinquent taxes.

#### CHAPTER VIII.

§ 19. **Control of Streets, etc.—Collection of Road Tax.**—SEC. 62. The wards, streets and alleys, within said city limits shall be under the exclusive control of the common council, who shall make all needful rules in regard to the improvement, repair, grading, cleaning, etc., etc., thereof, and for the purposes of this act, said city shall not be included in any road district, but the road tax, due by law within the city, shall be collected as provided by ordinance.

\* \* \* \* \*

§ 20. **Former Incorporation Dissolved.**—SEC. 64. That the "Inhabitants of the town of Olympia," a corporation organized and existing under an act of the legislative assembly of the Territory of Washington, entitled "An act to incorporate the Town of Olympia," approved November 9th, 1877,<sup>2</sup> be and the same is hereby disincorporated and dissolved.

§ 21. **Collection of Taxes Heretofore Levied.**—SEC. 65. All taxes heretofore levied by the inhabitants of the "Town of Olympia," remaining unpaid or delinquent, shall be paid to the "City of Olympia," as in this act provided for the payment of taxes, and such taxes may, by order of the common council, be collected from the person, firm or corporation, whether known or unknown, against whom the same was assessed, levied or charged by warrant, in the same manner, and with the same effect, provided in this act for the collection of delinquent taxes.

§ 22. **Force and Effect of Ordinances Heretofore Adopted.**—SEC. 66. All ordinances of the inhabitants of the "Town of Olympia," in force

<sup>2</sup> See No. 745, *supra*.

when this act goes into effect, shall be and remain in full force after this act takes effect, and until the same are repealed by the common council of the "City of Olympia," and all rights vested, and liabilities incurred, under said corporation of the inhabitants of the "Town of Olympia," or any ordinance of said inhabitants of the "Town of Olympia," when this act takes effect, shall not thereby be lost, impaired or discharged.

\* \* \* \* \*

### No. 748.—AN ACT TO INCORPORATE THE CITY OF OLYMPIA.<sup>1</sup>

#### CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.* The corporate limits of the city of Olympia and the boundaries thereof shall be as follows: Begin at the northeast corner of northwest quarter of section 25, township 18 north, range 2 west; run thence north on subdivisional line to north boundary of Q. A. Brooks' donation claim; thence west to the west shore of Budd's Inlet; thence, with the meanders of Budd's Inlet, south to where section line between sections 3 and 4, in township 18 north, range 2 west, intersects the said inlet; thence south to the northwest corner of section 27, in township 18 north, range 2 west; thence east to the place of beginning; all situated in Thurston county, Washington Territory.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Olympia, within the limits herein described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Olympia," and by that name and style they and their successors shall be known in law, having perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all actions, suits or proceedings whatever; contract and be contracted with, have and use a common seal, and alter and change the same at pleasure; receive property, real and personal, within said city for public buildings, public works and city improvements, and may dispose of the same in any manner for the benefit of the city, and may purchase property without the limits of the city to be used for burial purposes or for the establishment of a hospital for the reception of persons infected with contagious diseases.

#### CHAPTER II.

§ 3. **General Powers of Taxation.**—SEC. 3. The city of Olympia shall have power to assess, levy and collect taxes, for general municipal purposes, not to exceed one-half of one per centum per annum upon all property, both real and personal, within the city limits, which is by law taxable for Territorial and county purposes, and to levy and collect special taxes for special purposes on all of said property; but all taxes for general, municipal and special purposes, exclusive of assessments for improvements, as in this act is hereinafter provided, shall not exceed in any year one and one-half per centum per annum on the property assessed: *Provided*, That all ordinances providing for the payment of money for existing debts, to incur a debt, or for the making of improvements of any kind, must specify the object thereof and the estimated amount thereof: *And provided further*, That the indebtedness of the city must never exceed in the aggregate the sum of (\$10,000) ten thousand dollars, and any debt or liability incurred in excess of said sum of ten thousand dollars shall be invalid and void.

\* \* \* \* \*

§ 4. **Protection from Fire: Taxation for.**—SEC. 4. The city of Olympia shall have power to make regulations for the prevention of accidents

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 109.)

by fire, to organize and establish a fire department, and to make and ordain rules for the government of the same, to provide fire engines and other apparatus, and to levy and collect special taxes for that purpose not to exceed in any one year one-fifth of one per centum upon the taxable property within the corporate limits of the city.

\* \* \* \* \*

**§ 5. Appropriation of Private Property for Streets, etc.: Taxation for—Conveyances.**—SEC. 5. The city of Olympia shall have power to purchase or condemn, and enter upon and take any land within its territorial limits for public squares, streets, parks, commons, cemeteries, hospital grounds, and within or without such limits, to be used for work-houses or houses of correction, or any other proper and legitimate municipal purposes, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes not exceeding one-fifth of one per centum in any year. The city shall have entire control of all such buildings, and all lands purchased or condemned under the provisions of this section, and all streets, highways, squares, and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use, by any person or persons, and has power in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the same manner that may be prescribed by ordinance, shall vest in the purchaser all the right, title and interest of the city therein.

**§ 6. Lighting of Streets, etc.: Taxation for.**—SEC. 6. The city of Olympia shall have power to provide for the lighting of the streets with gas or other lights within such districts or limits as may be prescribed by ordinance, and for the erection or construction of such works as may be necessary or convenient therefor; and has power to levy and collect for these objects a special tax, not exceeding one-fifth of one per centum per annum upon the taxable property within such districts or limits benefited by such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes shall be assessed upon and collected only from property within said districts or limits; and is authorized to contract with any person, firm or corporation for the furnishing of such lights for any term not exceeding twenty-five years.

**§ 7. Opening, etc., Streets, etc.: Taxation for.**—SEC. 7. The city of Olympia shall have power to provide for clearing, opening, grading, graveling, improving and repairing streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, and from any cross or sidewalk; also, to regulate cellarways, cellar lights and sidewalks within the city, and to provide for cleaning the streets, and for constructing sewers and cleaning and repairing the same; and shall have power to assess, levy and collect each year a road poll tax of not less than four nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except active or exempt firemen and persons that are public charge; also, a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the corporate limits of the city, which taxes shall be expended for the purposes specified in this section; and there shall not be levied or collected by the county of Thurston or the officers thereof any road tax or road poll tax or bridge tax upon the property or inhabitants within the city: *Provided*, That in the grading of any street the city council shall remove the earth from line to line the full width of the street.

**§ 8. Construction, etc., Sidewalks, and Paving, etc., Streets, etc.: Taxation for.**—SEC. 8. The city of Olympia shall have power to construct and repair sidewalks, and to curb, pave, grade, gravel and gutter any



street or streets, highway or highways, alley or alleys, within the city, or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys, or any part thereof, sufficient to pay the expense of construction of said sidewalks and graveling or paving said streets and alleys, and for that purpose may establish assessment districts, consisting of the whole or any portion of such street or streets, highway or highways, alley or alleys, or of several streets, highways and alleys, as may be deemed advisable. But unless the owners of more than one-half of the property subject to assessment for such improvement petition the council to make the same, such improvement shall not be made until two-thirds of all the members of the council by vote authorize the making of the same.

\* \* \* \* \*

**§ 9. Establishing Grade of Streets, etc.: Appropriation of Private Property for—Street Railways.**—SEC. 10. The city of Olympia shall have power to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, name, change, extend, vacate and establish streets, highways, alleys and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvements authorized by this section, to be applied on compensation of property so condemned or damaged, or to authorize or prevent the location and laying down of railway tracks and street railways on all streets, alleys and public places, and no railway track can thus be laid down until the injury to property abutting upon the street, alley or public place upon which such track is proposed to be located and laid down has been ascertained and compensated in the manner provided for compensation of injuries arising from regrade of streets in section 113 of this act.

\* \* \* \* \*

**§ 10. May Adopt Proper Ordinances.**—SEC. 20. The city of Olympia shall have power to adopt proper ordinances for the government of the city and to carry into effect the powers given by this act, \* \* \*

\* \* \* \* \*

**§ 11. Incidental Powers.**—SEC. 21. The city of Olympia shall have \* \* \* such other powers and privileges, not herein specifically enumerated, as are incidental to municipal corporations of like character and degree not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act, according to the true intent and meaning thereof.

\* \* \* \* \*

**§ 12. Regulations, etc., of Wharves and Piers.**—SEC. 23. That the city of Olympia shall have power \* \* \* to build, construct and regulate wharves, piers and landing places, or to authorize the same to be done at the foot of any street terminating at the shore of Budd's Inlet within the city limits, and to regulate and prescribe the limits of the extension of any wharf or wharves into the water of said inlet within said limits.

#### CHAPTER III.

**§ 13. Government.**—SEC. 24. The power and authority given to the city of Olympia by this act, shall be vested in the mayor and common council, together with such other officers as are in this act mentioned or may be created under its authority.

\* \* \* \* \*

**§ 14. Officers.**—SEC. 28. There shall be elected \* \* \* a city clerk, city marshal, city treasurer, \* \* \* city assessor, street commissioner and city surveyor, who shall be officers of the municipal corporation.

\* \* \* \* \*

CHAPTER V.

§ 15. **Powers of the Council.**—SEC. 40. The common council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein, or by some ordinance of the city, conferred on some other officers.

\* \* \* \* \*

§ 16. **Equalization of Taxes.**—SEC. 44. The common council shall have power to equalize taxes upon the assessment roll of the city at any time prior to the day fixed for taxes becoming delinquent: *Provided*, That ten days' notice by publication or written or personal service shall be given to any person whose name it is proposed to add to the list, or to any person whose assessment it is proposed to increase, citing him to come forward and show cause, if any there be, why such action should not be taken by said common council.

§ 17. **Control of Streets, etc.; Road District.**—SEC. 45. The wards, streets and alleys within said city limits shall be under the exclusive control of the common council, who shall make all needful rules in regard to the improvement, repair, grading, cleaning, etc., etc., thereof, and for the purposes of this act, said city shall not be included in any road district, but all the road or bridge tax, whether general or special, due by law within the city, shall be collected as provided by ordinance.

\* \* \* \* \*

§ 18. **Duties of Marshal.**—SEC. 68. The city marshal shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the city treasurer monthly, taking duplicate receipts, one of which he shall file with the city clerk.

\* \* \* \* \*

§ 19. **Duties of Assessor.**—SEC. 71. The city assessor must annually make a correct list of all the property within the corporate limits of the city, subject to taxation by the city, with the valuation thereof, and certify and return the same to the city clerk on or before the first meeting of the council in March each year.

\* \* \* \* \*

§ 20. **Manner of Assessment.**—SEC. 73. The assessment must be made on the property and in the manner designated and prescribed by law for assessing property for Territorial and county taxes. But the form of assessment roll and the rule for ascertaining the ownership of property, and in whose name it may be assessed, may be prescribed by ordinance.

CHAPTER VII.

§ 21. **Rate of Interest on Taxes.**—SEC. 80. Whenever a municipal tax has been levied, as provided in this act, every part thereof shall bear interest at the legal rate from the time it becomes delinquent, and it shall be a lien upon all real estate so taxed from the time of the levy thereof.

§ 22. **When Taxes Become Delinquent.**—SEC. 81. The common council shall provide by ordinance within what time all taxes shall be paid to the city treasurer; and all taxes not so paid within such time are thereafter delinquent, and must be collected as such.

§ 23. **Return of Roll.**—SEC. 82. Within five days after such taxes have become delinquent the city treasurer shall return the tax roll to the city clerk, designating thereon the taxes remaining unpaid.

§ 24. **Warrant for Collection.**—SEC. 83. The common council shall order the city clerk to deliver the tax roll to the marshal, after annexing thereto a warrant directed to the marshal, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll in the man-

ner provided by law,<sup>2</sup> and pay the same to the city treasurer, and return to the city clerk the warrant, with his proceedings endorsed thereon and the receipt of the treasurer for all moneys collected thereby and paid into the city treasury.

§ 25. **Force and Effect of Warrant.**—SEC. 84. Such warrant, for the purpose of collecting such delinquent taxes, shall be deemed an execution against property and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner,<sup>3</sup> except as in this chapter otherwise provided.

§ 26. **In What Case Real Property May be Levied.**—SEC. 85. If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it may be levied upon any<sup>4</sup> real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officers and all expenses of sale.

§ 27. **How Levied Against Unknown Owner.**—SEC. 86. In case of a delinquent tax levied upon real property in the name of an owner unknown, the warrant shall be executed by levying upon each lot or part thereof of such property for the tax levied thereon, and selling it separately, as provided by the laws of the Territory regulating the sale of property for taxes, and the certificate of the marshal or person making such sale shall be given to the purchaser, as prescribed by said laws.

§ 28. **Redemption: Limitation and Manner of.**—SEC. 87. Real property sold for delinquent taxes within the corporate limits of the city, may be redeemed by the owner or his successor in interest, or by any person having a lien or judgment, decree or mortgage on such property, or any part thereof, after the expiration of the time and in the manner prescribed by the laws aforesaid.

§ 29. **In What Case City May Purchase.**—SEC. 88. When any land or town lots cannot be sold for the amount of taxes, interest and charges thereon, such lands or town lots shall be passed over and reoffered for sale before the close of the sale, and if the same cannot then be sold for the amount, such lands or town lots shall be purchased by the city treasurer, for the amount due thereon, for the city.

§ 30. **Return of Warrant, etc.**—SEC. 89. The common council may provide by ordinance, within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant and collected as a part of the tax. The common council may prescribe by ordinance the fees and compensation for collecting delinquent taxes.

§ 31. **Collection of Taxes Heretofore Levied.**—SEC. 90. All taxes heretofore levied by the inhabitants of the "Town of Olympia" or the "City of Olympia," and remaining unpaid or delinquent, shall be paid to the "City of Olympia," as in this act provided for the payment of taxes, and such taxes may, by order of the common council, be collected from the person, firm or corporation, whether known or unknown, against whom the same was assessed, levied or charged by warrant in the same manner, and with the same effect, provided in this act for the collection of delinquent taxes.

§ 32. **Actions Concerning Assessments, etc.**—SEC. 91. In any action, suit or proceeding in any court, concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax, or proceeding consequent thereon, such assessment, levy, consequent pro-

<sup>2</sup> <sup>3</sup> <sup>4</sup> See No. 795, *infra*.

ceedings and all proceedings connected therewith, shall be presumed to be regular and duly taken until the contrary is shown; and when any proceeding, matter or thing is, by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.

**§ 33. What Shall Not Be Necessary to Recite in Deed.—SEC. 92.** In making a deed for real property sold for delinquent taxes, it shall not be necessary to recite or set forth the proceedings prior to the sale, but it shall be sufficient, if it substantially appear from such deed that the property was sold by virtue of a warrant from the city for delinquent taxes, and the amount thereof, together with the date of the sale, and the amount paid therefor by the purchaser. The warrant for the collection of delinquent taxes shall be and run in the name of the city of Olympia.

#### CHAPTER VIII.

**§ 34. Notice of Intention to Improve.—SEC. 93.** The city council whenever it deems it expedient to establish or alter the grade of any street or alley of the city, or to make any improvement thereof, as authorized by sections five, six, seven, eight, nine and ten of this act, shall cause a survey, diagram and estimate of the cost thereof to be made by the city surveyor; and the said survey, diagram and estimate shall be filed in the office of the city clerk for the inspection of all persons interested therein, and a notice of the intention to grade, pave or otherwise improve said street or alley, and the filing of such survey, diagram and estimate shall be given by two weekly publications in the newspaper doing the city printing. Such notice must specify the street or part thereof to be improved, or of which the grade is to be altered, and the kind of improvement proposed to be made.

**§ 35. Effect of Remonstrance.—SEC. 94.** If within ten days from the final publication of such notice two-thirds in number of the persons owning property on said street or alley, and representing one-half of the property on said street or alley, shall file with the city clerk a remonstrance against said improvements, grade or alteration, the same shall not be further proceeded with unless two-thirds of the council shall vote therefor.

**§ 36. Effect of Failure to Remonstrate.—SEC. 95.** If no such remonstrance be made and filed, as in the last section provided, the council, at its earliest convenience thereafter, and within four months from the publication of such notice, may establish the proposed grade and proceed to make the proposed improvements.

**§ 37. Appraisement and Assessment of Abutting Property.—SEC. 96.** In all cases when the council shall, by ordinance order the improvement of any street or alley by the construction of sidewalks or graveling said streets or alleys, and the owner or owners of the property adjacent thereto neglect or refuse to comply with said ordinance within the time fixed by said ordinance, and the cost thereof has been duly estimated as herein provided, the council shall, before proceeding with the execution of the work, cause an appraisement of the lots and land abutting on said street adjacent to said improvements and assessable for the costs thereof as follows: An assessor shall be appointed by the council and sworn to appraise all lots and parts of lots and lands, irrespective of the improvements or structures thereon, and the whole cost of said planking or graveling shall be assessed *pro rata* on said lots or parts thereof and lands as aforesaid, according to the assessed value thereof, which apportionment shall be made by the city council by ordinance, and a tabulated statement thereof shall be made out by the city clerk and filed in his office for the information of all persons concerned, and a notice thereof published in the newspaper doing the city printing for two weeks. Such statement shall show the name of the owner of each lot, if known; the

number and frontage of each lot, part of a lot or other land; the number of the block, if numbered, and the value of such lots, parts of lots and other land, respectively.

\* \* \* \* \*

**§ 38. Lien of Taxes for Improvements—How Acquired and Released.**—SEC. 98. When the tabulated statement, as provided in section 96, has been approved by the council, the same shall be recorded in the office of the county auditor of the county of Thurston, in the records of liens on real property, and shall be and remain a lien on the lots, parts of lots and lands described therein for the several sums assessed thereon, respectively, and as fast as the said several assessments are paid the city clerk is authorized and required to enter on said county record of said liens a release thereof, which shall be made in the margin of said record, opposite the lot or land so released, and the same shall be thereafter discharged from said lien.

**§ 39. Collection of Such Taxes.**—SEC. 99. When the city council shall have duly approved of said assessment and apportioned the cost of the improvement, they shall by ordinance establish the same, and require the payment of said assessment within ten days from the approval thereof, and shall give notice in the newspaper doing the city printing that said assessment is due and payable to the city treasurer. The clerk shall furthermore make out and deliver to the treasurer a copy of said appraisal and assessment, who shall proceed to collect in the same manner as other city taxes, except as is herein otherwise provided.

**§ 40. Warrant for Collection.**—SEC. 100. If, within ten days after the publication of said last named notice, the sum assessed upon any lot, part of lot or other land is not paid to the treasurer, the city council may at any time thereafter order a warrant for the collection of the same, to be issued by the city clerk, directed to the city marshal.

**§ 41. What Warrant Must Require.**—SEC. 101. Such warrant must require the city marshal to forthwith levy upon the lot, part of lot or other land upon which the assessment is unpaid, and sell the same in the manner provided by law for the sale of real estate for delinquent taxes, and return the proceeds of such sale, less his fees, to the city treasurer and the warrant to the county auditor, with his doings endorsed thereon, together with the receipt of the city treasurer for the proceeds of such sale.

**§ 42. Tax Deed: Limitation of Redemption.**—SEC. 102. The person executing such warrant shall immediately make a certificate of purchase for the property sold to the purchaser, stating therein that the same is made subject to redemption as hereinafter provided. Within three years from the date of sale the owner or his successor in interest or any person having a lien by judgment, decree or mortgage on the property, or any part thereof, separately sold, may redeem the same upon the terms and conditions provided in the next section.

**§ 43. Manner of Redemption.**—SEC. 103. Redemption is made by the payment of the purchase money and twenty-five per cent. additional, together with the interest upon the purchase money from the date of the sale to the time of payment, at legal rate, and the amount of any tax which the purchaser may have paid upon the property, together with interest upon such taxes at the legal rate.

**§ 44. Effect of Redemption.**—SEC. 104. A redemption discharges the property from the effects of the sale, and from the assessment. If made by the owner or his successor in interest, the estate in the property is thereby restored to such owner or successor in interest; but if made by a lien holder, the amount so paid shall form part of his lien and bear the same rate of interest.

**§ 45. Effect of Sale.**—SEC. 105. A sale of real property under the provisions of this chapter, conveys to the purchaser (subject to redemption)



all the estate or interest therein of the owner, whether known or unknown: *Provided*, That all proceedings therein shall be governed by the provisions of the Code of Washington concerning the sale of real estate and transfer of title for delinquent taxes.

**§ 46. Fees, etc., to be Collected From Property Assessed.—SEC. 106.** The fees and percentage to be allowed to the person for making the sale of property for delinquent assessments for street improvements, as provided in this chapter, shall be fixed by the council by ordinance, and shall be added to and form a part of such assessment from the time the same becomes delinquent, and shall be collected from the property assessed in the manner as the original assessment, and in no instance shall the city be liable for such percentage, costs or fees.

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**§ 47. If Sum Assessed, Insufficient to Pay Cost, Deficiency Shall be Added.—SEC. 108.** If, upon the completion of any improvement of any street or alley it is found that the sum assessed therefor is insufficient to defray the cost thereof, the city council must ascertain the deficiency and declare the same by ordinance; and when so declared the city clerk shall give notice thereof, and such deficiency shall be added to the original assessment and collected in the same manner; and when such assessment shall be in excess of the sum required for said improvement, the same shall be repaid to the parties owning the property or their representatives.

**§ 48. Assessment Districts.—SEC. 109.** For the purpose of making the appraisalment, specified in section 96 of this chapter, the city council may establish assessment districts, consisting of the whole of any street or streets, or parts thereof, benefited by said improvements.

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**§ 49. What Tax Deed Shall State.—SEC. 111.** The deed to the purchaser must express the true consideration therefor and the return of the person executing the warrant must specify the amount for which the lot was sold and the name of the purchaser.

**§ 50. Petition for Improvement.—SEC. 112.** No street, alley or highway shall be extended, widened, altered or vacated except on petition to the common council, signed by a majority of the resident owners of real estate within the ward or wards, in or through which such street, alley or highway is proposed to be extended, widened or vacated, or unless at a regular meeting of the council, all the members being present, at least four members vote in favor of the same.

**§ 51. Appraisalment and Settlement of Damages for Establishing Grade of Streets.—SEC. 113.** When the grade of any street, highway or alley shall have been established by authority of the city of Olympia, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterwards change the established grade, or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage, and when the parties injured are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two so appointed, or in case of their disagreement, by the city council; said appraisers shall be sworn to faithfully execute their duties, according to the best of their ability. They shall view the premises and receive any legal evidence and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment. They shall assess the damages sustained over and above the additional value of the property by reason of the change

or improvements. They shall sign their report and deliver the same to the clerk of the district court of the county or district embracing the city, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final and the city shall pay the amount so assessed, and upon filing a precept therefor, the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk of the court shall, upon the filing of a written precept therefor by the city or any person aggrieved within said twenty days, enter the case upon the trial docket for the term of the said district court. The party claiming damages shall be the plaintiff and the city shall be the defendant. The usual pleading in a civil action may be filed and such special pleadings as the court may allow, and the issues thus formed shall be tried as other civil actions. The costs shall be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the same has been tried at the instance of the city for the purpose of reducing the amount of damages and the damages were not so reduced, otherwise the costs shall be taxed against the party claiming damages.

**§ 52. Appraisement and Settlement of Damages for Appropriation of Private Property.**—SEC. 114. When private property shall have been condemned and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, as provided in section ten of this act, the assessment upon the various lots or parcels of land so charged and the appraisement of damages to be paid to the owner of the property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of property subject to assessment, and one by the owner or owners of property condemned or damaged, or if either or both said classes of property owners fail or refuse to make such appointment after ten days' notice so to do, which notice shall be given in the manner prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn; shall proceed in making the assessments, and shall report within the time and in the manner prescribed for appraisers in the preceding section. Their award shall be final unless objection is made within twenty days from the time of the return thereof to the clerk of the district court. Any party aggrieved by the award may, upon filing a receipt therefor, have the case docketed for trial at the next term of the court. When the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair assessments upon property, the city shall be plaintiff and the owner of the property defendant. The issue shall be made up, the case tried and determined, and costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city and all costs of the appraisements and other proceedings under this section, shall be added to the gross amount to be raised by assessment and collected from the several property holders in the same proportion as said gross amount, and said assessments and costs shall be a lien upon the property therewith charged.

**§ 53. Manner of Appropriation in Other Cases.**—SEC. 115. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of the Territory relating to the mode of proceeding to appropriate lands by private corporations.<sup>5</sup>

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<sup>5</sup> See Nos. 460, 461, *supra*.

CHAPTER IX.

§ 54. **Ordinances.**—SEC. 116. The style of every ordinance shall be: "The city of Olympia does ordain as follows." All ordinances and resolutions or rules for the appropriation or payment of money shall require, for their passage or adoption, the concurrence of a majority of all the members of the council. No ordinance shall embrace more than one subject, and that shall be expressed in the title, and no ordinance or section thereof shall be revised or amended unless the new ordinance or section contain the entire ordinance or section revised or amended, and the ordinance or section so amended shall be repealed.

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§ 55. **Force and Effect of Ordinances Heretofore Adopted.**—SEC. 118. All ordinances of the inhabitants of the "Town of Olympia" or "City of Olympia," in force when this act goes into effect, shall be and remain in force after this act takes effect, and until the same are repealed by the common council of the "City of Olympia," and all rights vested and liabilities incurred under said corporation of the "Town of Olympia," or "City of Olympia," or any ordinance of said inhabitants of the "Town of Olympia" or "City of Olympia," when this act takes effect, shall not thereby be lost, impaired or discharged.

CHAPTER X.

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§ 56. **Assessment of Acreage.**—SEC. 120. All real property within the limits of the city of Olympia, not laid off in blocks or lots at the time of making any assessment authorized by this act, must be assessed at its cash value per acre or fractional part thereof as the case may be.

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§ 57. **Repealing Clause.**—SEC. 122. All acts and parts of acts in conflict with any of the provisions of this act be and the same are hereby repealed.

**No. 749.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF OLYMPIA," APPROVED NOV. 28, 1883.<sup>1</sup>

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. That section 1 of chapter one of said act,<sup>2</sup> to which this amendatory, be amended to read as follows: Section 1. The corporate limits of the city of Olympia and the boundaries thereof shall be as follows: Begin at the northeast corner of northwest quarter of section twenty-five, township eighteen north, range two west; run thence north on subdivision line to the north boundary line of section twelve, township eighteen north, range two west; thence west on section line to northeast corner of northwest quarter of northwest quarter of section ten, township eighteen north, range two west; thence south along subdivision line to northeast corner of northwest quarter of northwest quarter of section twenty-seven, township eighteen north, range two west; thence east on section line to place of beginning, all situated in Thurston county, Washington Territory.

\* \* \* \* \*

§ 2. **Equalization of Taxes.**—SEC. 12. That section forty-four (44) of chapter five<sup>3</sup> be amended so as to read as follows: Sec. 44. The common council shall have power to equalize taxes upon the assessment roll of the city at any time within twenty days after the return of said roll by the

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 419.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 748, § 1, *supra*.

<sup>3</sup> See *ibid.*, § 16.

clerk to the council: *Provided*, That ten days' notice by publication or written or personal service shall be given to any person whose assessment it is proposed to increase, citing him to come forward and show cause, if any there be, why such action should not be taken by said common council. Property omitted from assessment list may, however, be added by the clerk to said list at any time without notice.

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§ 3. **Duties of Assessor.**—SEC. 15. That section seventy-one (71) of chapter five <sup>4</sup> be amended so as to read as follows: Sec. 71. The city clerk shall be *ex-officio* city assessor, and must annually, within thirty days after the equalization of the county assessment roll and its approval by the board of county commissioners of Thurston county, W. T., transcribe therefrom a description of all property within the corporate limits of the city subject to taxation, with the values thereof as shown by the county roll, and certify and return the same to the city council at its next regular meeting thereafter.

\* \* \* \* \*

§ 4. **General Powers of Taxation.**—SEC. 18. That section three (3) of chapter two <sup>5</sup> be amended so as to read as follows: Sec. 3. The city of Olympia has power to assess, levy and collect taxes for general municipal purposes not to exceed one-half of one per centum per annum upon all property, both real and personal, within the city limits, which is by law taxable for Territorial and county purposes, and to levy and collect special taxes for special purposes on all of said property; but all taxes for general, municipal and special purposes, exclusive of assessments for improvements, as in the charter of the city of Olympia provided, shall not exceed in any one year one and one-half per cent. per annum on property assessed: *Provided*, That all ordinances providing for the payment of money for existing debts, to incur a debt or for the making of improvements of any kind, must specify the object thereof and the estimated amount thereof: *And provided further*, That the indebtedness of the city must never exceed in the aggregate the sum of twelve thousand (12,000) dollars, and any debt or liability incurred in excess of said sum of twelve thousand (12,000) dollars shall be invalid and void.

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<sup>4</sup> See No. 748, § 19, *supra*.

<sup>5</sup> See *ibid.*, § 3.

## CHAPTER XIII.—CITY OF POMEROY.

### No. 750.—AN ACT TO INCORPORATE THE CITY OF POMEROY.<sup>1</sup>

#### CHAPTER I.

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. That the corporate limits of the city of Pomeroy and the boundaries thereof shall be as follows, to wit: Beginning at the northwest corner of section thirty-six (36), in township twelve (12) north, of range forty-one (41) east of the Willamette meridian; thence running easterly along the section lines to the northeast corner of section thirty-two (32), in township twelve (12) north, of range forty-two (42); thence running south along the section lines to the quarter post at the center of the east line of section five (5), in township eleven north, of range forty-two (42); thence running westerly to the

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 324.) In effect from date.

quarter post at the center of the west line of section one (1), in township eleven (11) north, of range forty-one (41); thence running north along the section lines to the place of beginning; containing three whole sections and three half-sections, all in Garfield county, Washington Territory.<sup>2</sup>

\* \* \* \* \*

<sup>2</sup> This No. after above § is *verbatim*, as §§ 2 to 59, inclusive, of No. 725, *supra*, except wherever in said No. the word "Dayton" appears, read "Pomeroy;" and instead of the word "Columbia," read "Garfield;" and § 5 of said No. at 15 omit "or without" so as to read "within its territorial limits;" and instead of § 7, read as follows: "Sec. 7. The city of Pomeroy shall have power to provide for clearing, opening, graveling, improving and repairing streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, and from any cross-or sidewalk, also to regulate cellar-ways, cellar-lights and sidewalks within the city, and to provide for cleaning the streets and for constructing sewers, and cleaning and repairing the same, and shall have power to assess, levy and collect a special tax on property of not less than two, nor more than six mills on every dollar's worth of taxable property within the corporate limits of the city; also a road poll tax of not less than two (2) nor more than four (4) dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except active or exempt firemen and persons that are a public charge, which taxes shall be expended for the purposes specified in this section, and there shall not be levied or collected by the county of Garfield or the officers thereof, any road tax or any road poll tax upon the property or inhabitants within the city; all road poll taxes levied and assessed by the city, shall be collected and expended by and under supervision of the street commissioner of the city, and if the same are not duly paid in accordance with the laws of the city, he may maintain an action in the proper court, in his own name, to collect the same, and any judgment obtained by him in pursuance of such authority may be enforced as any judgment in civil actions is enforced," and § 8 at 16 instead of "five-sevenths" read "four-fifths;" and § 14 at 17 omit all after "water works" to end of said §; and instead of §§ 18, 19, read as follows: "Sec. 25. The government of the city shall be vested in a mayor and a common council, consisting of five members." \* \* \* "Sec. 28. There shall be appointed by the council with the approval of the mayor, annually, at their first regular meeting, a city marshal who shall be *ex-officio* street commissioner and health officer, a city recorder who shall be *ex-officio* city assessor and clerk of the board of common council, and a city treasurer;" \* \* \* and § 24 at 18 instead of "city surveyor," read "street commissioner;" and omit all of said § after 19; and § 27 at 20 omit that part enclosed in [ ]: and § 57 at 21 instead of "five members" read "four members."

## CHAPTER XIV.—CITY OF PORT TOWNSEND.

### No. 751.—AN ACT TO INCORPORATE THE CITY OF PORT TOWNSEND, JEFFERSON COUNTY, WASHINGTON TERRITORY.<sup>1</sup>

#### ARTICLE FIRST.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Port Townsend shall be bounded as follows, to wit: Commencing at half tide mark at Point Hudson, at the southeast corner of A. A. Plummer's donation claim; thence along the meanderings of Port Townsend Bay south, 59 west, one and three-eighths of a mile to southwest corner of L. B. Hastings' donation claim; thence north, 31 west, three-eighths of a mile; thence north, 59 east, one and three-eighths of a mile to half tide mark on Admiralty Inlet; thence south, 31 east, three-eighths of a mile to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said city of Port Townsend shall be and are hereby constituted a body politic and corporate, by the name and style of the city of Port Townsend, and by that name they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, in all courts whatsoever; and receive property, personal and real, within said city, for public

<sup>1</sup> Passed Jan. 16, 1860. (See Seventh Reg. Sess. 1859-60, p. 433.)



buildings, public works and city improvements, and may dispose of the same in any way for the benefit of the city; may purchase property beyond the limits of the city to be used for burial purposes, and for the establishment of a hospital for the reception of persons infected with contagious diseases.

ARTICLE SECOND.

§ 3. **Government and Officers.**—SECTION 1. For the government of the said city of Port Townsend there shall be annually elected, in the manner hereinafter provided, the following officers: A board of trustees (consisting of five members), who shall hold their offices for one year, or until their successors shall be duly elected and qualified; and there shall be appointed annually by the board of trustees one city clerk and one city marshal.

\* \* \* \* \*

ARTICLE FOURTH.

\* \* \* \* \*

§ 4. **Power of Trustees.**—SEC. 4. Said board of trustees shall have full power and authority—(1) To make all needful by-laws, ordinances and town regulations not repugnant to the constitution or the laws of the United States and the laws of this Territory. (2) To levy taxes for municipal purposes not to exceed one-half of one per centum per annum upon all taxable property, as is shown by the assessment made for the Territorial and county purposes. \* \* \* (6) The roads, streets and alleys within said city limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvements, repair, grading, cleaning, etc., etc., thereof. And for the purposes of this act said city shall not be included in any road district, but the road tax now due by law within said town shall be collected by the city marshal and laid out and expended by him as directed by ordinance.

\* \* \* \* \*

**No. 752.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF PORT TOWNSEND, JEFFERSON COUNTY, WASHINGTON TERRITORY."<sup>1</sup>

§ 1. **Boundaries.**—*Be it enacted, etc.,* That the incorporate town of Port Townsend shall hereafter be bounded as follows, to wit: Commencing at half-tide mark at Point Hudson, at the southeast corner of A. A. Plummer's donation claim, thence along the meanderings of Port Townsend bay, south 59 west, to the centre of what is known on the plat of the town of Port Townsend as Van Buren street, thence along said street north 81 west, three-eighths of a mile, thence north 59 east to half tide on Admiralty Inlet, thence south about 81 east, along the meanderings of said Admiralty Inlet, to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 17, 1861. (See Eighth Reg. Sess. 1860-61, p. 108. See also No. 751.)

**No. 753.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF PORT TOWNSEND, JEFFERSON COUNTY, WASHINGTON TERRITORY," PASSED JANUARY 16, 1860, AND TO REPEAL ALL OTHER ACTS IN RELATION THERETO.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted etc.,* That section one of article first of the act of which this is amendatory,<sup>2</sup> be and the same is

<sup>1</sup> Approved Jan. 18, 1867. (See 14th Reg. Sess. 1866-67, p. 177.)

<sup>2</sup> See No. 751, § 1, *supra*.

hereby revived, and the boundaries of the city of Port Townsend shall hereafter be as described in said section.

\* \* \* \* \*  
**§2. Control Over Streets, etc.—SEC. 3.** \* \* \* Said act is further amended by adding the following:

ARTICLE NINTH.

\* \* \* \* \*  
**SEC. 6.** That all streets within the city limits which are laid out and dedicated to the public by the original proprietors of the town of Port Townsend, as indicated on the plat of said town on file in the auditor's office in the county of Jefferson, Territory of Washington, be and the same are hereby declared to be public streets, and liable to be re-opened in the manner herein prescribed, where the same have been closed, and kept open for the use of the public. Whenever any street within the limits of the city, as prescribed in this act, shall be obstructed wholly or in part by any fence or other structure erected by any person, and three or more lot owners in the city shall present a petition to the board of trustees, praying the removal of such obstruction, it shall be the duty of said board to cause the obstruction to be immediately removed.

**§3. Repealing Clause.—SEC. 8.** That all laws and parts of laws heretofore passed, in any manner conflicting with the provisions of this act, be and the same are hereby repealed.

**No. 754.—AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF PORT TOWNSEND, JEFFERSON COUNTY, WASHINGTON TERRITORY," PASSED JANUARY 16, 1860, AND TO REPEAL ALL OTHER ACTS IN RELATION THERETO.<sup>1</sup>**

**§1. Board May Raise Money.—SECTION 1.** *Be it enacted, etc.,* That the board of trustees of the city of Port Townsend be and they are hereby authorized and empowered in the name of the city to raise a sum of money not to exceed three thousand dollars, upon which they may pay interest at any rate not exceeding eighteen per centum per annum, to be appropriated for the purpose of building a road and dyke for the purpose of keeping out the waters of the Straits and Port Townsend Bay.

\* \* \* \* \*  
**§2. Collection of Taxes.—SEC. 5.** That for the purpose of enforcing the collection of taxes levied on property within the limits of the city of Port Townsend for municipal purposes, the city marshal may exercise the same power, and proceed in the same manner as sheriffs now are or may be hereafter authorized to do in enforcing the collection of taxes on property for county and Territorial purposes.

**§3. Repealing Clause.—SEC. 6.** That all laws and parts of laws heretofore passed, in any manner conflicting with the provisions of this act, be and are hereby repealed.

<sup>1</sup> Approved Jan. 29, 1867. (See 14th Reg. Sess. 1866-67, p. 179.)

**No. 755.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF PORT TOWNSEND, JEFFERSON COUNTY, WASHINGTON TERRITORY," PASSED JANUARY 16, 1860, AND ALL SUBSEQUENT ACTS AMENDATORY THERETO.<sup>1</sup>**

ARTICLE I.

**§1. Boundaries.—SECTION 1.** *Be it enacted, etc.,* That the town of Port Townsend shall be bounded as follows, to wit: Commencing at half-

<sup>1</sup> Approved Nov. 29, 1871. (See Third Blen. Sess. 1871, p. 161.)

tide mark at Point Hudson, at the southeast corner of A. A. Plummer's donation claim; thence along the meanderings of Port Townsend Bay south 59° west, to the center of what is known on the plat of the town of Port Townsend as Van Buren street; thence along center of said street north 31 west, to center of Lawrence street; thence along center of Lawrence street to half-tide mark on Admiralty Inlet; thence south following meanderings of the beach, at half-tide mark, to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said town of Port Townsend shall be and are hereby constituted a body politic and corporate, by the name and style of the town of Port Townsend, and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued, plead and be impleaded, in all courts whatsoever; and receive property, personal and real, within said city, for public buildings, public works and city improvements, and may dispose of the same in any way, for the benefit of the city; and have power to grant privileges to erect wharves and piers at the termination of any street on the water front, and to regulate the rate of wharfage to be collected on said wharves, and the manner in which said wharves are to be built; may purchase property beyond the limits of the city to be used for burial purposes, and for the establishment of a hospital for the reception of persons infected with contagious diseases.

#### ARTICLE II.

§ 3. **Government and Officers.**—SEC. 3. For the government of the said city of Port Townsend, there shall be annually elected, in the manner hereinafter provided, the following officers: A board of trustees consisting of three members, who shall hold their offices for one year or until their successors shall be duly elected and qualified; and there shall be appointed annually by the board of trustees, a city clerk who shall act as road supervisor.

\* \* \* \* \*

#### ARTICLE IV.

\* \* \* \* \*

§ 4. **Power of Trustees.**—SEC. 12. Said board of trustees shall have full power and authority first, to make all needful by-laws, ordinances and town regulations relating to roads, streets, alleys, by-ways, wharves and piers, not repugnant to the constitution or the laws of the United States and the laws of the Territory.

\* \* \* \* \*

§ 5. **Control Over Roads, Streets, etc.**—SEC. 14. The roads, streets, alleys and wharves within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvements, repairs, grading, cleaning, etc., etc., thereof; and for the purposes of this act said town shall not be included in any road district, but shall be a road district of itself, and all road tax due by law within said town, or hereafter becoming due, shall be collected by the town clerk and laid out and expended by him as may be directed by the board of trustees.

\* \* \* \* \*

#### ARTICLE VI.

\* \* \* \* \*

§ 6. **To Protect Public Health.**—SEC. 18. To levy a tax to pay all expenses in procuring a suitable place to keep persons infected with any contagious disease, and the expense of keeping them.

#### ARTICLE VII.

\* \* \* \* \*

§ 7. **Repealing Clause.**—SEC. 21. That all laws and parts of laws heretofore passed, in any manner relating to the incorporation of the city of Port Townsend, be and the same are hereby repealed.

§ 8. **Date of Effect.**—SEC. 22. This act shall take effect and be in force from and after the first Monday of April, A. D. 1872.

**No. 756.—AN ACT TO INCORPORATE THE TOWN OF PORT TOWNSEND.<sup>1</sup>**

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the town of Port Townsend shall be bounded as follows, to wit: Commencing at half-tide mark at Point Hudson, at the southeast corner of A. A. Plummer's donation claim; thence along the meandering of Port Townsend Bay south 59° west, to the center of what is known on the plat of the town of Port Townsend as Van Buren street; thence along the center of said street north 31° west till it reaches the center of Laurence street; thence along center of Laurence street north 59° east until it reaches half tide on Admiralty Inlet; thence along the meandering of the beach to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the town of Port Townsend shall be and are hereby constituted a body politic and corporate, by the name and style of the town of Port Townsend, and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued, plead and be impleaded, in all courts whatsoever; and receive property, personal and real, within said city, for public buildings, public work and city improvements, and may dispose of same in any way for the benefit of the city; and have power to grant privileges to erect wharves and piers at the termination of any street on the water front, and to regulate the rate of wharfage to be collected on said wharves, and the manner in which said wharves are to be built; for the erection of water works to supply the town with water, and may sell, lease or dispose of the same, for the benefit of the town; may purchase, acquire, receive and hold real property beyond the limits of the town to be used for burial purposes, and for the establishment of a hospital for the reception of persons infected with contagious diseases.

ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. For the government of said town of Port Townsend there shall be annually elected, in the manner hereinafter provided, the following officers: A board of trustees, consisting of three members, who shall hold their offices for one year, or until their successors be duly elected and qualified. And there shall be appointed annually, at their first regular meeting after election, by the board of town trustees, one town clerk and one town marshal.

\* \* \* \* \*

ARTICLE IV.

\* \* \* \* \*

§ 4. **Power of Trustees.**—SEC. 4. Said board of trustees shall have full power and authority to make all needful by-laws, ordinances and town regulations relating to roads, streets, alleys, by-ways, wharves, piers, and for security against fire, not repugnant to the constitution or the laws of the United States or the laws of the Territory.

\* \* \* \* \*

§ 5. **Control of Roads, Streets, etc.**—SEC. 7. The roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all rules in regard to the improvement, repair, grading, clearing, etc., etc., thereof. And for the purposes of this act said city shall not be included in any road district, but the road tax

<sup>1</sup> Approved Nov. 5, 1873. (See Fourth Blen. Sess. 1873, p. 514.)

now due by law within said town shall be collected by the town marshal and laid out and expended by him as directed.

ARTICLE V.

§ 6. **School District No. 1.**—SECTION 1. The boundaries named in this act as the boundaries of the town of Port Townsend shall constitute and be acknowledged and recognized by the superintendent of public schools of Jefferson county, W. T., as the boundaries of school district No. 1.

\* \* \* \* \*

ARTICLE IX.

\* \* \* \* \*

§ 7. **Repealing Clause.**—SEC. 3. That all laws and parts of laws heretofore passed, in any manner relating to the incorporation of the town or city of Port Townsend, be and the same are hereby repealed.

§ 8. **Date in Effect.**—SEC. 4. This act shall take effect and be in force from and after the first Monday in December, 1878.

**No. 757.—AN ACT IN RELATION TO SURVEYS IN THE TOWN OF PORT TOWNSEND.<sup>1</sup>**

§ 1. **Re-Survey of Town Plat.**—SECTION 1. *Be it enacted, etc.*, That A. A. Plummer, Sr., F. W. Pettygrove and J. J. H. VanBokkelen be and are hereby constituted a board of commissioners to locate and establish the corners of the lots and blocks of the original survey of the original town of Port Townsend, as laid out and platted by A. A. Plummer, Sr., and others, or so many of said corners as they may deem necessary for a correct re-survey of said town of Port Townsend; The corners so established by said board of commissioners to be forever hereafter established points in the survey of said town of Port Townsend, and all surveys shall conform thereto.

\* \* \* \* \*

§ 2. **New Plat to be Made.**—SEC. 3. Said commissioners shall make out or cause to be made a plat of said town with the corners established by them plainly marked; said plat shall be filed with the auditor of Jefferson county, W. T.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1878. (See Fourth Bien. Sess. 1878, p. 546.) In effect from date.

**No. 758.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF PORT TOWNSEND."<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That article five of an act entitled "An act to incorporate the city of Port Townsend," approved Nov. 5, A. D. 1878,<sup>2</sup> be and is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 26, 1875. (See Fifth Bien. Sess. 1875, p. 188.) In effect from date.

<sup>2</sup> See No. 756, *supra*.

**No. 759.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF PORT TOWNSEND," APPROVED NOVEMBER 5, 1878.<sup>1</sup>**

§ 1. **Power of Trustees.**—SECTION 1. *Be it enacted, etc.*, That section four of article four of said act<sup>2</sup> be and the same is hereby amended to read

<sup>1</sup> Approved Nov. 9, 1875. (See Fifth Bien. Sess. 1875, p. 187.) In effect from date.

<sup>2</sup> See No. 756, § 4, *supra*.



as follows: Sec. 4. Said board of trustees shall have full power and authority within said town—(1) To make all needful by-laws and ordinances not repugnant to the laws of the United States and the laws of Washington Territory. \* \* \* (4) To grade, pave and plank or otherwise improve, clean and keep in repair streets and alleys. And they shall have power to assess the cost of grading, planking or cleaning of any street against the owners of the lots or land fronting on said street, in proportion to the amount of ground fronting on said street: *Provided*, That they shall not grade, plank or clean any street at the expense of the property owners unless two-thirds of the persons owning lots or land on said streets in the immediate vicinity where such improvements are to be made shall petition the trustees in writing therefor. \* \* \*

§ 2. **School District No. 1.**—SEC. 2. That article five of the said act<sup>2</sup> be and the same is hereby repealed.

\* \* \*  
\* See *ibid.*, § 6.

**No. 760.—AN ACT TO REPEAL CERTAIN SECTIONS OF ACTS AND CERTAIN ACTS RELATING TO THE INCORPORATION OF THE CITY OR TOWN OF PORT TOWNSEND, JEFFERSON COUNTY, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

§ 2. **Boundaries.**—SEC. 2. That section one (1) relating to boundaries \* \* \* of an act approved January 18, 1867, entitled an act to amend an act to incorporate the city of Port Townsend, passed January 16, 1860,<sup>2</sup> be and the same is hereby repealed.

\* \* \*  
§ 3. **Act of 1873 Repealed.**—SEC. 4. That all of the act approved November 5, 1873,<sup>3</sup> to incorporate the town of Port Townsend, be and the same is hereby repealed.

§ 4. **Act of 1875 Repealed.**—SEC. 5. That all of an act approved November 9, 1875,<sup>4</sup> to amend an act to incorporate the city or town of Port Townsend, approved November 5, 1873, be and the same is hereby repealed.

\* \* \*  
<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 423.) In effect from date.

<sup>2</sup> See No. 753, § 1, *supra*.

<sup>3</sup> See No. 756, *supra*.

<sup>4</sup> See No. 759, *supra*.

**No. 761.—AN ACT TO EXTEND AND DEFINE THE CORPORATE LIMITS OF THE CITY OF PORT TOWNSEND.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the city of Port Townsend, in Jefferson county, shall include within its limits all of sections one, two, eleven and twelve, in township thirty north, range one west, Willamette meridian, including the water fronting the same, to the middle of Port Townsend bay, all in said county; and also including all wharves, quays, piers and landing places extending from said city into the waters of Puget Sound.

\* \* \*  
<sup>1</sup> Approved Nov. 3, 1879. (See Seventh Bien. Sess. 1879, p. 198.) In effect from date.

**No. 762.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO EXTEND AND DEFINE THE CORPORATE LIMITS OF THE CITY OF PORT TOWNSEND," APPROVED NOV. 3, 1879.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That an act entitled "An act to extend and define the corporate limits of the city of Port Townsend," approved November 3, 1879,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Bien. Sess. 1879, p. 202.) In effect from date.

<sup>2</sup> See No. 761, *supra*.

**No. 763.—AN ACT TO INCORPORATE THE CITY OF PORT TOWNSEND.<sup>1</sup>**

CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the city of Port Townsend shall be bounded as follows: Beginning at Point Hudson, in Jefferson county, Washington Territory, at low tide, thence northerly, along low tide, to the north line of Seventh street, that being the northeast corner of Al. Pettygrove's addition to the town now city of Port Townsend; thence westerly along said Seventh street to D street in said addition; thence southerly along D street to Third street; thence westerly along Third street to K street; thence along K street to the county road; thence along the north side of the county road to the corner post between the donation claims of Pettygrove and Plummer; thence southerly along said donation line to Lawrence street of the city of Port Townsend; thence westerly along Lawrence street to the east side of Pierce street (old plat); thence southerly on said east line to the middle of Port Townsend bay; thence at a right angle easterly to a point south of Point Hudson; thence northerly to the place of beginning. And all that part of Jefferson county, Washington Territory, included within said lines to be known as the city of Port Townsend.

§ 2. **General Powers.**—SEC. 2. The inhabitants within the city of Port Townsend are hereby constituted and declared to be a municipal corporation, by the name and style of the "City of Port Townsend," and by that name shall have perpetual succession, and may sue or be sued, plead or be impleaded, in all courts of justice, contract and be contracted with; acquire, hold, sell, and convey property, real and personal, and have and use a common seal, and alter the same at pleasure.

CHAPTER II.

§ 3. **General Powers of Taxation.**—SEC. 3. The city of Port Townsend has power to assess, levy and collect taxes for general municipal purposes, not to exceed two-fifths per centum per annum upon all property, both real and personal, within the city, which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided. But all taxes for general and special municipal purposes, exclusive of assessments for improvements, as hereinafter provided in sections eight, nine and eleven, shall not in any year exceed one and one-half per centum on the property assessed.

§ 4. **Protection From Fire: Taxation for.**—SEC. 4. The city of Port Townsend has power to make regulations for prevention of accidents by fire, to organize and establish a fire department, ordain rules for the government of the same, to provide fire engines and other apparatus, and a sufficient supply of water, and to levy and collect special taxes for these

<sup>1</sup> Approved Nov. 29, 1882; "1881" according to original law. (See Eighth Bien. Sess. 1881, p. 15.)

purposes, not to exceed in any year one-fifth of one per centum upon the taxable property within the city. \* \* \*

**§ 5. Appropriation of Private Property for Streets, etc.—Conveyances.**—SEC. 5. The city of Port Townsend has power to purchase or condemn and enter upon and take any lands within or without its territorial limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for work houses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes, not exceeding one-fifth per centum in any year. The city marshal shall have<sup>2</sup> entire control of all such buildings, and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may be hereafter dedicated to public use by any person or persons; and has power, in case such lands are deemed unsuitable or insufficient for the purpose intended, to dispose of and convey the same, and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city, or the public, existing prior to such conveyance. But when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

**§ 6. Lighting Streets, etc.: Taxation for.**—SEC. 6. The city of Port Townsend has power to provide for the lighting of the streets and furnishing the city with gas or lights, and for the erection and<sup>3</sup> construction of such works as may be necessary or convenient therefor; and has power to levy and collect for these objects a special tax not exceeding one-fifth of one per centum per annum upon the taxable property within the limits of the benefits of such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes shall only be assessed upon and collected from property within said limits.

**§ 7. Opening, Improving, etc., Streets, etc.: Taxation for.**—SEC. 7. The city of Port Townsend has power to provide for clearing, opening, graveling, improving and repairing of streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, or from any cross or sidewalk; also to regulate cellar ways and cellar lights in sidewalks within the city, and to provide for clearing the streets; also for constructing sewers and cleaning and repairing the same; and has power to assess, levy and collect each year a road poll tax of not less than four nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except persons that are a public charge; also a special tax on property of not less than two nor more than four mills on every dollar's worth of property within the city, which taxes shall all be expended for the purposes specified in this section; and the officers of Jefferson county shall not levy or collect any road tax upon the inhabitants or property within the city of Port Townsend.

**§ 8. Construction, etc., Sidewalks, and Opening, etc., Streets, etc.: Taxation for.**—SEC. 8. The city of Port Townsend has power to construct and repair sidewalks, and to curb, pave, grade, macadamize and gutter any street, highway or alley therein, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such street, highway or alley sufficient to pay the expense of such improvement; but unless the owners of more than one-half of the property subject to assessment for such improvement petition the council to make the same, such improvement shall not be made until at least five members<sup>4</sup> of the council by vote assent to the making of the same.

<sup>2</sup> \* <sup>4</sup> See No. 772, *infra*.

**§ 9. Removal of Certain Nuisances: Collection of Expense.—SEC. 9.** The city of Port Townsend has power to cause any lot of land within its limits on which water at any time becomes stagnant to be drained or filled up; and to cause any vault within the city to be cleaned when necessary; and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council with reference to such matter, after such notice as in such ordinance or resolution may be prescribed, the work necessary may be done at the expense of the city, and the amount so expended shall be assessed as a tax upon such property, and shall be collected as other assessments.

**§ 10. Lien and Collection of Assessments.—SEC. 10.** The city of Port Townsend has power, by general ordinance, to prescribe the mode in which the charge on the respective owners of lots or land, and on the lots or lands, shall be assessed and determined for the purpose authorized by this act; such charge, when assessed, shall be payable by the owner or owners at the time of the assessment, personally, and shall also be a lien upon the respective lots or parcels of land from the time of the assessments. Such charge may be collected, and such lien may be enforced by a proceeding in law or in equity, either in the name of the city of Port Townsend or of the officer to whom it shall have directed payment to be made. In any such proceedings, where pleadings are required, it shall be sufficient to declare generally for work and labor done and materials furnished on the particular lot or parcel of land or street, highway or alley. In any such proceeding, where the court trying the same shall be satisfied that the work has been done or materials furnished, which, according to the true intent and meaning of this act, would be properly chargeable upon the lot or land through or by which the street, highway or alley improved or repaired may pass, a recovery shall be permitted, or a charge enforced to the extent of the proper portion of the value of the work or materials which should be chargeable on such lot or land, notwithstanding any informality, irregularity and defect in the proceedings of the officers of the city; but in such case the court may adjudge as to costs as may be deemed proper; and in cases where an assessment shall have been regularly made, and payment shall have been neglected or refused at the time when the same was required, the city shall be entitled to demand and recover, in addition to the amount assessed and interest thereon at ten per cent. per annum from the time of the assessment, five per cent. to defray the expenses of collection, which shall be included in any judgment or decree which may be rendered.

**§ 11. Establishing Grade of Streets, etc.: Appropriation of Private Property for—Street Railways.—SEC. 11.** The city of Port Townsend has power to provide for the survey of the blocks and streets of the city and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, narrow, change, extend, vacate and establish streets, highways and alleys, and all public grounds; and to provide for the condemnation of such real estate as may be necessary for such purposes; and to levy and collect assessments upon all property benefited by any change or improvement authorized by this section sufficient to make compensation for all property condemned or damaged, and to authorize or forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places, but no railway track can thus be located and laid down until after the injury to property abutting upon the street, alley or public place upon which said track is proposed to be located and laid down, has been ascertained and compensated in the manner provided for compensation of injuries arising from re-grade of streets in section 106 of this act.

**§ 12. Maintenance of Water Works.—SEC. 12.** The city of Port Townsend has power to erect and maintain water works, or to authorize the

erection of the same, for the purpose of furnishing the city with a sufficient supply of water; but no such works shall be erected by the city until a majority of the voters of the city at a general or special election shall vote for the same.

§ 13. **Extra-Territorial Jurisdiction.**—SEC. 13. The city of Port Townsend has power to construct, or authorize the construction of, such water works without the limits of the city, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works, and all reservoirs, streams, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken for five miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect.

§ 14. **Term of Franchise.**—SEC. 14. If the right to construct and operate such water works is granted to private individuals or corporated companies by the city of Port Townsend, it may make such grant to inure for a term of not more than twenty-five years; \* \* \*

§ 15. **Appropriation of Private Property for Water Works.**—SEC. 15. The city of Port Townsend is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works; and if it shall authorize the construction and operation thereof by individuals or private corporations, it may confer by ordinance upon such person or persons or corporation the said power to take and appropriate private property for such purpose.

§ 16. **Purchase and Maintenance of Water Works: Taxation for.**—SEC. 16. The city of Port Townsend shall have power at the regular term for levying taxes in any year to levy and collect a special tax not exceeding one-half of one per centum upon the taxable property within the limits prescribed as hereinafter provided, for the purpose of constructing such water works: *Provided*, No such tax shall be levied for the purpose of aiding any private individual or corporation; and when such works shall have been constructed, the city of Port Townsend shall have power to assess and collect from time to time, in such manner as the city council may deem equitable, from each tenement or other place supplied with water, such water rent as may be deemed reasonable; and at the regular time for levying taxes in each year, to levy and collect in addition to the taxes already authorized by this section, a special tax on taxable property within the limits prescribed as hereinafter provided, sufficient with the water rents hereby authorized to pay the expenses of running and operating such works, and if the right to build, maintain and operate such water works shall be granted to private individuals or corporations by the city, and the city shall contract with such individuals or corporation for a supply of water for any purpose, said city shall levy and collect each year a special tax sufficient to pay off such water rent to such individual or company, provided that said taxes shall not exceed one-half of one per centum upon the taxable property within the limits of the benefits and protection of such work, which limits shall be fixed by the city council each year before levying any tax authorized by this section. And all such taxes shall only be assessed upon and collected from property within said limits.

\* \* \* \* \*

§ 17. **Limit of Indebtedness.**—SEC. 24. The city of Port Townsend has power to borrow money on the credit of the city for any purpose within the authority of the corporation, including the payment of any existing debt. But the indebtedness of the city must never exceed in the aggregate the sum of five thousand<sup>s</sup> dollars, and any debt or liability incurred in excess of said five thousand<sup>s</sup> dollars shall be invalid and void.

\* \* \* \* \*

<sup>s</sup> \* See No. 772, *infra*.



## CHAPTER III.

§ 18. **Government.**—SEC. 28. The power and authority given to the municipal corporation by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned, or may be created under its authority.

\* \* \* \* \*

§ 19. **Officers.**—SEC. 31. There shall be [appointed by the mayor, or by and with the advice and consent of the common council<sup>7</sup>] \* \* \* clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner, \* \* \* and assessor and collector, who shall be officers of the municipal corporation. \* \* \*

\* \* \* \* \*

## CHAPTER VI.

§ 20. **Powers of the Council.**—SEC. 48. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

\* \* \* \* \*

## CHAPTER VIII.

\* \* \* \* \*

§ 21. **Duties of Assessor.**—SEC. 69. The assessor must annually make a correct list of all the property subject to taxation by the city of Port Townsend, with the valuation thereof, and certify and return the same to the clerk.

\* \* \* \* \*

§ 22. **Manner of Assessment.**—SEC. 71. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes; but the form of assessment roll and the rule for ascertaining the ownership of property and in whose name it may be assessed may be prescribed by ordinance, and the time of making such assessments, and the return thereof, and of applying to the council for a revision thereof, must be prescribed by ordinance.

§ 23. **Duties of Collector.**—SEC. 72. The collector shall collect all delinquent taxes and assessments when required by warrant, \* \* \*

\* \* \* \* \*

## CHAPTER IX.

§ 24. **Ordinances.**—SEC. 79. The style of every ordinance shall be: "The city of Port Townsend does ordain as follows:" All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all the members of the council. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no ordinance or section thereof shall be revised or amended unless the new ordinance contain the entire ordinance or section reviewed; and the ordinance or section so amended shall be repealed.

\* \* \* \* \*

## CHAPTER X.

§ 25. **Collection of Delinquent Taxes.**—SEC. 81. The assessor shall annually make out a list of the names of all persons within the city liable to pay a road poll tax, as provided in section seven of this act, and return such list to the council with his assessment of property. Said list of names shall be given to the collector and he shall at once proceed to collect such poll tax as the council may have levied for the year, from each

<sup>7</sup> See No. 772, *infra*. The [ ] shown here do not appear in this act; they are inserted for convenient reference.

person upon said list; the collector shall place upon his list the names of all persons found within the city liable to pay such poll tax who shall fail to produce a receipt for the payment of a road poll tax for the current year. He shall demand the amount due from each person named upon the list, and shall proceed at once to collect the same from any person, who shall fail to pay the same when so demanded, by levy and sale of the property, real or personal, of such person so delinquent, or sufficient thereof for that purpose, and to pay the expenses of the levy and sale: \* \* \*

**§ 26. Lien and Satisfaction of Taxes—Rate of Interest.—SEC. 82.** Whenever any general or special tax has been levied as provided and authorized in chapter two of this act, the same shall \* the effect of a judgment against the person, and every lien created by this act has the force and effect of an execution duly levied against all property of the person assessed; the judgment is not satisfied, nor the lien removed until the taxes are paid and every tax due upon real property is a lien against the property assessed; and every tax due upon improvements upon real estate assessed to other than the owner of the real estate is a lien upon the land and improvements, and every part thereof shall bear interest at the legal rate from the time the same is delinquent until paid or collected.

**§ 27. When Taxes Become Delinquent.—SEC. 83.** The council must provide by ordinance within what time all taxes, levied as provided and authorized in chapter two, may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes, and must be collected as such within five days from the expiration of the time limited for paying taxes to the treasurer; the treasurer must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

**§ 28. Warrant for Collection.—SEC. 84.** The council must thereafter order the clerk to deliver the tax roll to the collector, and issue and annex thereto a warrant directed to the collector, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll in the manner provided by law, and pay the same to the treasurer, less his fees and costs of collection, and return the warrant with his doings thereon, and the receipt of the treasurer for all moneys collected thereby and paid to the treasurer by the clerk.

**§ 29. Force and Effect of Warrant.—SEC. 85.** Such warrants for the purpose of collecting such delinquent taxes shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied, or charged on the tax roll, and shall be executed and returned in like manner except as in this chapter otherwise provided.

**§ 30. In What Case Real Property May Be Levied On.—SEC. 86.** If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it must be levied on any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officer, and all expenses of sale and executing the warrant.

**§ 31. How Levied Against Unknown Owner.—SEC. 87.** In case of a delinquent tax levied upon real property in the name of an owner unknown, the warrant shall be executed by levying upon each lot or part thereof of such property for the tax levied thereon and selling it separately.

**§ 32. Tax Deed: What Shall State.—SEC. 88.** When real property is sold for delinquent taxes, the person executing the warrant must imme-

diately make a deed for such property to the purchaser, stating therein that the same is made subject to redemption as provided by law, and such sale shall have the effect to convey to the purchaser, subject to redemption, as hereinafter provided, all the estate or interest therein of the owner, whether unknown or known, together with all the rights and appurtenances thereunto belonging.

**§ 33. Redemption: Manner and Limitation of.**—SEC. 89. Real property, sold for delinquent taxes, as provided in this chapter, may be redeemed by the owner, or his successor in interest, or by any person having a lien by judgment, decree or mortgage on such property or any part thereof, separately sold within three years from the date of the deed therefor, by the payment of purchase money, and twenty-five per cent. addition, together with the interest upon the purchase money from the date of sale to the time of payment at the legal rate, and the amount of any tax which the purchaser may have paid upon the property.

\* \* \* \* \*

**§ 34. Return of Warrant, etc.**—SEC. 91. The council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant and collected as a part of the tax. Council may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the treasury.

#### CHAPTER XI.

\* \* \* \* \*

**§ 35. Actions Concerning Assessment, etc.: Discretion of Council.**—SEC. 97. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith shall be presumed to be regular and duly done or taken until the contrary is shown, and when any proceeding, matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.

\* \* \* \* \*

**§ 36. What Shall not be Necessary to Recite in Deed.**—SEC. 99. In making a deed for real property sold for delinquent taxes, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appear from such deeds that the property was sold by virtue of a warrant from the city of Port Townsend and the vote thereof for a delinquent tax, and the amount thereof, together with the date of the sale and the amount paid thereat by the purchaser. The style of a warrant for the collection of delinquent taxes shall be in the name of the city of Port Townsend.

\* \* \* \* \*

**§ 37. Assessment of Acreage.**—SEC. 101. All real property within the limits of the city of Port Townsend not laid off in blocks at the time of making any assessment authorized by this act, must be assessed at its cash value per acre or fraction thereof as the case may be.

\* \* \* \* \*

**§ 38. Petition for Improvement.**—SEC. 103. No street, highway or alley shall be extended, widened, altered or vacated except on petition to the city council signed by a majority of the resident owners of real estate within the ward or wards in or through which such street, highway or alley is proposed to be extended, widened, altered or vacated.

**§ 39. Appraisement and Settlement of Damages for Changing Grade of Street, etc.—SEC. 104.** When the grade of any street, highway or alley shall have been established by authority of the city of Port Townsend, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterward change such established grade, or shall change the boundary lines of any block, street, highway or alley, in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured, the amount of such damage, and when the parties interested are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property, and one by the two so appointed, or in case of their disagreement, by the city council. Said appraisers shall be sworn to faithfully execute their duties according to the best of their ability; they shall view the premises, and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment; they shall assess the damages sustained over and above the additional value of the property by reason of the change or improvement; they shall sign their report, and deliver the same to the clerk of the district court holding terms at Port Townsend; and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final, and the city shall pay the amount so assessed; and upon filing a precipe therefor, the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk shall, upon filing a written precipe therefor, by the city or any person aggrieved, within said twenty days, enter the case upon the trial docket for the next term; the party claiming damages shall be plaintiff, and the city shall be defendant. The usual pleadings in a civil action may be filed, or such special pleadings as the court shall allow, and the issues thus formed shall be tried as other civil actions. The costs to be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the cause has been tried at the instance of the city for the purpose of reducing the amount of damages, and the damages are not so reduced, otherwise the costs shall be taxed against the parties claiming damages.

**§ 40. Appraisement and Settlement of Damages for Appropriation of Private Property.—SEC. 105.** When private property shall have been condemned and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, as provided in section eleven of this act, the assessments upon the various lots or parcels of land so charged and the appraisement of damages to be paid to the owners of the property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of property subject to assessment, and one by the owner or owners of property condemned or damaged; or if either or both of said classes of property owners fail or refuse to make such appointment after ten days' notice so to do, which notice shall be given in the manner to be prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn; shall proceed in making the assessment, and shall report within the time and in the manner prescribed for appraisements in the preceding section. Their award shall be final unless objection is made within twenty days from the time of the return thereof to the clerk of the district court. Any party aggrieved by the award may, upon filing a precipe therefor, have the case docketed for trial at the next term of the court. When the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair

assessments upon property, the city shall be plaintiff and the owner of the property defendant. The issue shall be made up, the cause tried and determined and the costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city, and all costs of the appraisal and other proceedings under this section shall be added to the gross amount to be raised by assessment and collected from the several property holders in the same proportion as said gross amount, and said assessments and costs shall be a lien upon the property therewith charged.

§ 41. **Special Tax to be Submitted to Vote.**—SEC. 106. No special tax for any purpose, as provided in this act, shall be assessed unless by a majority vote of all resident real property holders in said city of Port Townsend, expressed at an election held for that purpose. Notice of such election to be given for at least twenty days before holding the same; such notice shall state for what purpose said tax is to be levied.

\* \* \* \* \*

§ 42. **Repeal and Saving Clauses.**—SEC. 108. All other acts or parts of acts heretofore passed in relation to the subject-matter herein contained are hereby repealed, and all other acts or parts of acts in anywise inconsistent with this act are hereby repealed: *Provided*, That this repeal shall not affect any ordinance, rule or order of said city heretofore in force therein, nor any act done or by virtue of any law, ordinance or order heretofore in force therein, nor any tax or assessment levied therein, and all property of whatsoever kind belonging to the city of Port Townsend as heretofore existing; and all debts or moneys due said city shall belong to and remain the property of the city established by this act.

§ 43. **Date in Effect.**—SEC. 109. This act shall take effect and be in force from and after Jan. 2, 1881.<sup>2</sup>

<sup>2</sup> "Jan. 1, 1882," according to original law on file in the office of the secretary of state.

**No. 764.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF PORT TOWNSEND," APPROVED NOV. 29, 1881.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That section one of an act entitled "An act to incorporate the city of Port Townsend," approved November 29, 1881,<sup>2</sup> be amended so as to read as follows: That the city of Port Townsend, Jefferson county, Washington Territory, shall be bounded as follows: Beginning at Point Hudson, Jefferson county, W. T., at low water; thence northerly along low tide to the north line of Seventh street, that being the northeast corner of Al. Pettygrove's addition to the town (now city) of Port Townsend; thence westerly along said Seventh street to D street in said addition; thence southerly along D street to Third street; thence westerly along Third street to K street; thence along K street to the north side of the county road; thence westerly along the north side of the county road to a point where the donation line between the donation claims of Hastings and Pettygrove crosses the said road; thence southerly along and on the same course of said donation line to a point in the middle of Port Townsend bay; thence at right angle easterly to a point opposite Point Hudson; thence northerly to the place of beginning; and all that portion of Jefferson county, W. T., included within said lines to be known as the city of Port Townsend.

§ 2. **Repealing Clause.**—SEC. 2. That section one of this act of which this is amendatory be and the same is hereby repealed.

§ 3. **Date in Effect.**—SEC. 3. This act shall take effect and be in force from and after January 10, 1884.

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 130.)

<sup>2</sup> See No. 763, § 1, *supra*.



CHAPTER XV.—TOWN AND CITY OF SEATTLE,

No. 765.—AN ACT TO INCORPORATE THE TOWN OF SEATTLE.<sup>1</sup>

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the town of Seattle shall include all of the west half of section four (4) and fractional sections (5) and (6) of township twenty-four (24) north, range four east, and sections thirty-one (31) and thirty-two (32) and the west half of section thirty-three (33), in township twenty-five (25) north, range four (4) east, including the waters fronting the same to the middle of Elliot's bay, all in the county of King and Territory of Washington.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said town of Seattle shall be and are hereby constituted a body politic and coporate, by the name and style of the "Town of Seattle," and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued, plead and be impleaded, in all courts whatsoever; and receive property, personal and real, within said town for public buildings, public works and town improvements, and may dispose of the same in any way for the benefit of the town; may purchase property beyond the limits of the town, to be used for burial and for other useful purposes.

ARTICLE II.

§ 3. **Government.**—SECTION 1. For the government of the said town of Seattle there shall be annually elected, in the manner hereinafter provided, the following officers: A board of trustees (consisting of five members), who shall hold their offices for one year, or until their successors shall be duly elected and qualified; and there shall be appointed annually by the board of trustees, one town clerk, one town marshal \* \* \*

\* \* \* \* \*

ARTICLE IV.

\* \* \* \* \*

§ 4. **Power of Trustees.**—SEC. 4. Said board of trustees shall have full power and authority—(1) To make all needful by-laws, ordinances and regulations not repugnant to the constitution or laws of the United States and the laws of this Territory; (2) to levy taxes for municipal purposes, not to exceed one-half of one per centum per annum, upon all taxable property, as is shown by the assessment made for Territorial and county purposes; \* \* \* (6) the roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvement, repair, grading, cleaning, etc., thereof; and for the purposes of this act said town shall not be included in any road district, but the road tax now due by law within said town shall be collected by the town marshal, and laid out and expended by him as directed by ordinance.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 14, 1865. (See Twelfth Reg. Sess. 1864-65, p. 75.)

No. 766.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF SEATTLE," APPROVED JANUARY 14, 1865.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.,* That the act incorporating the town of Seattle, approved January 14, 1865,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 18, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 181.) In effect from date.

<sup>2</sup> See No. 765, *supra*.

**No. 767.—AN ACT SUPPLEMENTAL TO AN ACT ENTITLED "AN ACT TO REPEAL AN ACT ENTITLED AN ACT TO INCORPORATE THE TOWN OF SEATTLE," APPROVED JANUARY 14, 1865.<sup>1</sup>**

§ 1. **Collection of Delinquent Taxes.**—SECTION 1. *Be it enacted, etc.,* That the act to which this is supplemental, passed at the present session, shall not be so construed as to prevent the collection of taxes, delinquent or otherwise, sufficient to pay any indebtedness from said town to any person, company or corporation, and the properly constituted authorities under the charter of said town are hereby authorized and empowered to collect taxes sufficient to liquidate all the indebtedness aforesaid.

§ 2. **In Whom Title to Property Rested.**—SEC. 2. That all property belonging to said town after paying the said indebtedness, whether real, personal or mixed, including money on hand, and especially the cemetery property situated on the donation land claim of David T. Denny, be and the same is hereby vested in the county commissioners of King county and their successors in office, for the use of the people of said county, with power to sell, dispose of and convey at a price to be fixed by them, all lots in said cemetery remaining undisposed of.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 28, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 181.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 768.—AN ACT TO INCORPORATE THE CITY OF SEATTLE.<sup>1</sup>**

CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Seattle shall include within its limits all of sections three, four, five, six, eight, nine and ten, in township twenty-four north, of range four east; section twenty-five in township twenty-five north, range three east; and sections twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three and thirty-four, in township twenty-five north, range four east, including the water fronting the same to the middle of Elliot's Bay, all in the county of King and Territory of Washington.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Seattle are hereby constituted and declared to be a municipal corporation by the name and style of the "City of Seattle," and by such name shall have perpetual succession, sue and be sued, plead and be impleaded in all courts of justice, and in all actions, suits or proceedings whatever, may purchase, hold and receive property both real and personal within said city, for public buildings, public works and city improvements; may lease, sell or dispose of the same for the benefit of the city; may purchase, hold and receive property, both real and personal, beyond the limits of the city to be used for burial purposes, for the establishment and maintenance of a hospital for the reception of persons afflicted with contagious or other diseases, for work houses and for houses of correction, and they shall have and use a common seal.

CHAPTER II.

§ 3. **Government.**—SEC. 3. The power and authority given to the municipal corporation of the city of Seattle, by this act, is vested in a mayor and common council and their successors in office, to be exercised in the manner hereinafter described.

\* \* \* \* \*

<sup>1</sup> Signed by the President of the Council and Speaker of the House on Dec. 1, 1869. Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 437.)

§ 4. **Officers.**—SEC. 6. There shall be elected \* \* \* treasurer, marshal, and an assessor and collector, who shall be officers in the municipal corporations. \* \* \*

\* \* \* \* \*

CHAPTER V.

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§ 5. **Power of Trustees.**—SEC. 32. The council has power and authority within the city of Seattle—(1) To assess, levy and collect taxes for general municipal purposes, not to exceed one quarter of one per centum per annum upon all property, both real and personal, which is taxable by law for Territorial or county purposes. \* \* \* (15) To levy and collect each year a special tax not exceeding one-quarter of one per centum, assessed by authority of the first subdivision of this section, for any specific object within the authority of this municipal corporation; but the ordinance providing therefor must specify the object thereof, and the estimated amount necessary therefor. \* \* \* (18) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks or streets, and to establish the grades of such streets. \* \* \*

§ 6. **How Authority Exercised.**—SEC. 33. The power and authority given to the council by section thirty-two can only be enforced or exercised by ordinance, unless otherwise expressly provided, and a majority of the council may pass any ordinance not repugnant to the laws of the United States or this Territory necessary or convenient for carrying such power and authority, or any part thereof, into effect.

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CHAPTER VII.

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§ 7. **Duties of Assessor.**—SEC. 46. The assessor must annually make a correct list of all the property subject to taxation in the city of Seattle, with the valuation thereof, and certify and return the same to the clerk of the common council.

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§ 8. **Manner of Assessment.**—SEC. 48. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes, but the form of the assessment roll and the rule for ascertaining the ownership of property and in whose name it may be assessed, may be prescribed by ordinance, and the time of making such assessment and the return thereof and of applying to the council for a revision thereof must be prescribed by ordinance.

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§ 9. **Duties of Collector.**—SEC. 51. The collector shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the treasurer monthly.

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CHAPTER VIII.

§ 10. **Rate of Interest on Taxes.**—SEC. 61. Whenever any general or special tax has been levied, as provided and authorized in section thirty-two, every part thereof shall bear interest at the legal rate from the time it becomes delinquent.

§ 11. **When Taxes Become Delinquent.**—SEC. 62. The council must provide by ordinance within what time all taxes, levied as provided and authorized in section thirty-two, may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes, and must be collected as such.

**§ 12. Return of Roll.—SEC. 63.** Within five days from the expiration of the time limited for paying taxes to treasurer, the treasurer must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

**§ 13. Warrant for Bulletin.—SEC. 64.** The council must thereafter order the clerk to deliver the tax roll to the collector, and issue and annex thereto a warrant directed to the collector, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll in the manner provided by law, and pay the same to the treasurer, less his fees and costs of collection, and return the warrant with his doings thereon, and the receipt of the treasurer for all moneys collected thereby and paid to the treasurer, to the clerk.

**§ 14. Force and Effect of Warrant.—SEC. 65.** Such warrant for the purpose of collecting such delinquent taxes shall be deemed an execution against property, and shall have the force and effect against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

**§ 15. In What Case Real Property May be Levied on.—SEC. 66.** If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it must be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officer, and all expenses of sale and executing the warrant.

**§ 16. Manner of Levy Against Unknown Owner.—SEC. 67.** In case of a delinquent tax levied upon real property in the name of an unknown owner, the warrant shall be executed by levying upon each lot or part thereof of such property for the tax levied thereon, and selling it separately.

**§ 17. Tax Deed: What Shall State.—SEC. 68.** When real property is sold for delinquent taxes, the person executing the warrant must immediately make a deed for such property to the purchaser, stating therein that the same is made subject to redemption as provided by law, and such sale shall have the effect to convey to the purchaser, subject to redemption as heretofore provided, all the estate or interest therein of the owner, whether known or unknown, together with all the rights and appurtenances thereunto belonging.

**§ 18. Redemption: Limitation and Manner of.—SEC. 69.** Real property sold for delinquent taxes, as provided in this chapter, may be redeemed by the owner or his successor in interest, or by any person having a lien by judgment, decree or mortgage on such property, or any part thereof separately sold, within three years from the date of the deed therefor by the payment of the purchase money and twenty-five per cent. additional, together with interest upon the purchase money from the date of sale to the time of payment, at the legal rate, and the amount of any tax which the purchaser may have paid upon the property.

\* \* \* \* \*

**§ 19. Return of Warrant.—SEC. 71.** The council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant and collected as a part of the tax. The council may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the treasury.

CHAPTER IX.

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§ 20. **Control Over Streets, etc.**—SEC. 76. The streets, roads and alleys within the corporate limits of the city of Seattle shall be under the exclusive control of the common council of said city, and said council shall have authority to make all needful rules in regard to the improvement, repair, grading and working thereof; and said city shall not be included in any road district, but the road tax which remain unpaid and is now due shall be paid to the treasurer of said city and the same be expended in improving the streets and roads of the city under the direction of the city authorities.

\* \* \* \* \*

§ 21. **Actions Concerning Assessments, etc.: Discretion of Council.**—SEC. 79. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment when exercised or declared is final and cannot be reviewed or called in question elsewhere.

\* \* \* \* \*

§ 22. **What Shall Not be Necessary to Recite in Deed.**—SEC. 81. In making a deed for real property sold for delinquent taxes, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city of Seattle, and the note thereof for a delinquent tax, and the amount thereof, together with the date of the sale and the amount paid thereat by the purchaser. The style of a warrant for the collection of delinquent taxes shall be in the name of the city of Seattle.

\* \* \* \* \*

§ 23. **Assessment to be at Cash Value.**—SEC. 83. All real property within the limits of the city of Seattle, not laid off in blocks at the time of making any assessment authorized by this act, must be assessed at its cash value per acre, or fraction thereof as the case may be.

§ 24. **Collection of Road Taxes.**—SEC. 84. The corporate limits of the city of Seattle shall constitute one ward<sup>2</sup> district, and the common council shall have the same authority that is now conferred by law upon the board of county commissioners of the several counties of this Territory to levy and assess a road tax of not less than three nor more than nine dollars on every person liable to perform labor on the public roads within the boundaries of said city, also to assess not less than two nor more than six mills on every dollar's worth of property as shown by the returns and assessment rolls of the assessor of said city of Seattle, which tax shall be collected and expended in improving the streets and roads in said city under the direction of the authorities of said city.

§ 25. **Repealing Clause.**—SEC. 85. All laws and parts of laws heretofore passed and now in force in this Territory in anywise conflicting with the provisions of this act be and the same are hereby repealed so far as they shall affect this act.

§ 26. **Date in Effect.**—SEC. 86. This chapter shall go into operation as soon as the law receives the signature of the presiding officers of the legislative assembly and be approved by the governor; \* \* \*

\* \* \* \* \*

<sup>2</sup> Road.



**No. 769.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF SEATTLE," APPROVED DEC. 2, 1869.<sup>1</sup>**

**1. Boundaries.**—SECTION 1. *Be it enacted, etc.*, That section first of the act to which this is amendatory<sup>2</sup> be and the same is hereby amended so that the same shall read as follows, viz.: "That the city of Seattle shall include within its limits all of section three, four, five, six, eight, nine and ten in township twenty-four north, of range four east, and all of that part of section twenty-five, in township twenty-five north, range three east, and sections twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three and thirty-four in township twenty-four north, of range four east, lying south of the following described line, viz.: Bell street, in Wm. N. Bell's town plat, as far as where said street intersects the north line of Arthur A. Denny's donation claim; thence running east with said line to where it intersects the line that runs between sections thirty-two and thirty-three, in township twenty-five north, of range four east; thence south to the quarter section corner between said sections thirty-two and thirty-three, and thence east on the quarter section line to Lake Washington, including the water fronting the same to the middle of Elliott's Bay, all in the county of King and Territory of Washington."

\* \* \* \* \*

<sup>1</sup> Approved Nov. 22, 1871. (See Third Blen. Sess. 1871, p. 128.) In effect from date.

<sup>2</sup> See No. 768, § 1, *supra*.

**No. 770.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF SEATTLE."<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Powers of Trustees.**—SEC. 4. That section thirty-two (32), chapter five (5), "of the organization and powers of the council"<sup>2</sup> be amended by adding thereto the following subdivisions: \* \* \* (24) To extend, locate, open, alter or vacate any street, alley, block, or part of any street, alley or block: *Provided*, That no street shall be extended, located or altered, except upon a petition to the city council, signed by a majority of resident real estate owners in the ward where said street is to be extended, located or altered: *And provided further*, That no street, alley or block shall be extended, vacated or altered until the question shall have been submitted to a vote of the resident real estate owners of the said city of Seattle at a general or special election, and shall have received a majority of all the votes of the aforesaid resident real estate owners in favor of such extension, vacation or alteration; (25) to appoint three disinterested householders of the city to assess the damages sustained by any person in extending, locating or altering any street; and to provide for the time, place and manner of presenting claims for damages: *Provided*, That any person who may conceive himself or herself aggrieved by the assessment of damages in extending, locating or altering any street, may, within twenty (20) days after the assessment is adopted by the city council, appeal therefrom to the district court; and such appeal shall be taken to the district court in the same manner as appeals from the justices of the peace courts, and if the appellant shall fail to recover a judgment more favorable than the report appealed from, he or she shall pay all costs of the appeal.

§ 3. **Collection of Road Taxes.**—SEC. 5. That section eighty-four (84), chapter nine (9) of "miscellaneous provisions,"<sup>3</sup> be amended so as to

<sup>1</sup> Approved Nov. 12, 1873. (See Fourth Blen. Sess. 1873, p. 556.)

<sup>2</sup> See No. 768, § 5, *supra*.

<sup>3</sup> See *ibid.*, § 24.

read as follows, to wit: The corporate limits of the city of Seattle shall constitute one road district and the common council shall have the same authority that is now conferred by law upon the board of county commissioners of the several counties of this Territory to levy and assess a road poll tax of not less than three nor more than nine dollars on every male person between the ages of twenty-one and fifty years within the boundaries of said city; also to assess not less than two nor more than six mills on every dollars' worth of property as shown by the returns and assessment rolls of the assessor of said city of Seattle, which tax shall be collected and expended in improving the streets and roads in said city under the direction of the authorities of said city; and when the collector or other person authorized by the city council of said city of Seattle to collect taxes cannot find sufficient property of a delinquent out of which to make the amount of his road poll and property tax, or any part thereof, he must collect the same, or any part thereof remaining uncollected, by an action in his own name against the delinquent before the recorder in the recorder's court of the said city of Seattle, and if judgment be given in such action against the defendant, it shall be enforced in the same manner as a judgment for a fine in a criminal action; and the said city council may provide the time and manner of commencing said action and the length of notice to be given to the delinquent. The road poll tax shall be deemed delinquent after demand having first been made upon the delinquent by the person authorized to collect the same, and payment of said road poll tax refused.

\* \* \* \* \*

**No. 771.—AN ACT TO ESTABLISH INITIAL AND STANDARD MONUMENTS FOR THE SURVEY OF THE STREETS OF THE CITY OF SEATTLE.<sup>1</sup>**

§ 1. **Certain Monuments Established.**—SECTION 1. *Be it enacted, etc.,* That certain monuments planted by order of the common council of the city of Seattle, at a special meeting held October 23, 1873, and located as follows, to wit: one at the intersection of the centers of Commercial and Mill streets, one at the intersection of the centers of Commercial and Main streets, one at the intersection of the centers of Mill and Fourth streets, one in the center of James and on the east line of Front streets, one at the intersection of the centers of James and Third streets, and one at the intersection of the centers of Third and Marion streets of the said city of Seattle, and accurately described in the "notes of the survey of Seattle," bearing date November 1, 1873, copies of which are on file with the clerk and engineer of said city, be and the same are hereby established the initial and standard points for the survey of the streets of the said city of Seattle; of King county, W. T.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourteenth Blen. Sess. 1873, p. 549.) In effect from date.

**No. 772.—AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF SEATTLE, APPROVED DECEMBER 2, 1869.<sup>1</sup>**

CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Seattle shall include within its limits all of sections three, four, five, six, in township twenty-four north, of range four east, sections thirty-one, thirty-two, thirty-three and thirty-four, in township twenty-five north, range four east, including the water fronting the same, to the middle of Elliott's bay, all in the county of King, and Territory of Washington.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Blen. Sess. 1875, p. 139.) In effect from date. This No., after the above §, is *verbatim* as No. 763, *supra*, except where in said No. the word "Port

Townsend" appears read "Seattle," and instead of "Jefferson county," read "King county;" and § 5 at 2 instead of "the city marshal shall have" read "the city shall have;" and § 6 at 3 instead of "and" read "or;" and § 8 at 4 instead of "until at least five members" read "until a majority of all the members;" and § 17 at 5 instead of "five thousand" read "two thousand;" and at 6 instead of "five thousand" read "ten thousand" and § 19 at 7 instead of that part enclosed in [ ] read "be elected as;" and instead of § 25 read as follows: "Whenever any general or special tax has been levied, as provided and authorized in chapter two of this act, every part thereof shall bear interest at the legal rate from the time it is due and payable until paid or collected;" and instead of §§ 42, 43, read as follows: "Sec. 106. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owner of such property, and the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations. Sec. 107. All the acts of which this act is amendatory, except the sections incorporated herein without amendment otherwise than by changing the number thereof, be and the same is hereby repealed. All other acts or parts of acts heretofore passed in relation to the subject-matter herein contained are hereby repealed. Sec. 108. This act shall take effect and be in force from and after passage." For act referred to in title see No. 768.

### No. 773.—AN ACT TO AMEND THE CHARTER OF THE CITY OF SEATTLE.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That the act of the legislative assembly approved November twelfth, one thousand eight hundred and seventy-five,<sup>2</sup> entitled "An act to amend an act entitled an act to incorporate the city of Seattle, approved December second, one thousand eight hundred and sixty nine, shall be and the same is hereby amended as follows, that is to say: section seven of said act<sup>3</sup> shall be and the same is so amended as to read as follows:

**Opening, Improving, etc., Streets, etc., Taxation for.**—SECTION SEVEN. The city of Seattle shall have power to provide for clearing, opening, graveling, improving and repairing of streets and highways and alleys; and for the prevention and removal of all obstructions therefrom, or from any cross or sidewalk; also to regulate cellarways and cellar lights on sidewalks within the city; and to provide for clearing the streets; also for constructing sewers and clearing and repairing the same; and have power to assess, levy and collect each year a road poll tax, of not less than four nor more than six dollars on every male inhabitant of the city, between the ages of twenty-one and fifty years, except persons that are a public charge; also a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the city; which taxes shall be expended for the purposes specified in this section, and the officers of the county shall not levy or collect any road tax or poll tax upon the inhabitants or property within the city. Section eight of said act<sup>4</sup> shall be and the same is so amended as to read as follows:

**Construction, Etc., Sidewalks and Paving, etc., Streets, etc.: Taxation for.**—SECTION EIGHT. The city of Seattle shall have power to construct and repair sidewalks, and to curve,<sup>5</sup> pave, grade, macadamize and gutter any street or streets, highway or highways, alley or alleys, therein or any part thereof; and to levy and collect a special tax or assessment on lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys or any part thereof, sufficient to pay the expense of such improvement, and for such purpose may establish assessment districts, consisting of a portion of the whole of any such street or streets, highway or highways, alley or alleys, or of several streets, highways and alleys, as may be deemed advisable. But unless the owners of more than one-half of the property subject to assessment for such im-

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 351.) In effect from date.

<sup>2</sup> See Nos. 772, *supra*.

<sup>3</sup> See *ibid.* and 763, § 7.

<sup>4</sup> See *ibid.*, § 8.

<sup>5</sup> Curb.

provement petition the council to make the same such improvement shall not be made until a majority of five-sevenths of all the members of the council, by vote, assent to making of the same, and the expense of improvements heretofore made in accordance with the provisions of this section, and not paid prior to the passage of this act, shall be assessed and collected as herein provided, notwithstanding any prior assessment upon any other or different basis than herein provided, and such prior assessment, or any attempt to collect the same, shall be no bar to a recovery in any suit or proceeding to collect the amount due for such improvements upon the basis of assessments herein provided. \* \* \* Section twenty-four of said act<sup>6</sup> shall be and the same is so amended as to read as follows:

**Limit of Indebtedness.**—SECTION TWENTY-FOUR. The city of Seattle shall have power to borrow money on the credit of the city, for any purpose within the authority of the corporation, including the payment of any existing debt; but the indebtedness of the city must never exceed in the aggregate the sum of twenty thousand dollars, and any debt or liability incurred in excess of said sum of twenty thousand dollars shall be invalid and void: *Provided*, That all debts heretofore contracted by the city shall be valid. \* \* \* Section eighty-four<sup>7</sup> of said act shall be and the same is hereby so amended as to read as follows:

**Warrant for Collection.**—SECTION EIGHTY-FOUR. The council must thereafter order the clerk to deliver the tax roll to the treasurer of the county within which the city is located, and issue and annex thereto a warrant directed to said treasurer, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll, in the manner provided by law, and pay the same to the treasurer, less his fees and costs of collection, and return the warrant with his doings thereon, and the receipt of the city treasurer, for all moneys collected thereby and paid to the city treasurer to the clerk. Section eighty-five<sup>8</sup> of said act shall be and the same is hereby so amended as to read as follows:

**Force and Effect of Warrant.**—SECTION EIGHTY-FIVE. Such warrant for the purpose of collecting such delinquent taxes shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner, except as in this chapter otherwise provided. The county treasurer shall proceed to collect the taxes upon such roll, at the same time and in the same manner as he is required to do in collecting delinquent Territorial and county taxes, and for such purposes he shall have the same authority as is given to him by the laws of the Territory relating to the assessment and collection of Territorial and county taxes; \* \* \*

§ 2. SEC. 2. Sections eighty-eight and eighty-nine<sup>9</sup> of said act are hereby repealed.

\* \* \* \* \*

<sup>6</sup> See No. 772, § 17, *supra*.  
<sup>7</sup> See *ibid.*, § 28.  
<sup>8</sup> See *ibid.*, § 29.  
<sup>9</sup> See *ibid.*, §§ 32, 33.

**No. 774.—AN ACT TO LEGALIZE CERTAIN ORDINANCES OF THE CITY OF SEATTLE.<sup>1</sup>**

§ 1. **Ordinances 175 and 176.**—SECTION 1. *Be it enacted, etc.*, That ordinance No. 175, passed by the council, and approved by the mayor of the city of Seattle on the 14th day of December, 1878, and ordinance No. 176, passed by the council, and approved by the mayor of said city on the 2d

<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Blen. Sess. 1879, p. 203.) In effect from date.

day of January, 1879, be and the same are each hereby declared to be valid ordinances of said city of Seattle, and of binding effect from the said dates of the approval of the same by said mayor, respectively.

\* \* \* \* \*

**No. 775.—AN ACT TO AMEND THE CHARTER OF THE CITY OF SEATTLE.<sup>1</sup>**

**§ 1. Construction, etc., Sidewalks, and Paving, etc., Streets, etc.: Taxation for.**—SECTION 1. *Be it enacted, etc.,* That the act of the legislative assembly, approved November 12, 1875,<sup>2</sup> entitled "An act to amend an act entitled an act to incorporate the city of Seattle, approved December 2, 1869," shall be and the same is hereby amended as follows—that is to say, section 8 of said act as amended by an act entitled "An act to amend the charter of the city of Seattle," approved, November 9th, 1877,<sup>3</sup> shall be and the same hereby is further amended so as to read follows, to wit: Sec. 8. The city of Seattle shall have power to construct and repair sidewalks, and to curve,<sup>4</sup> pave, grade, macadamize and gutter any street or streets, highway or highways, alley or alleys therein, or any part thereof, and to levy and collect a special tax or assessment on all lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys, or any part thereof, sufficient to pay the expense of such improvement, and for such purpose may establish assessment districts, consisting of all lots and parcels of land fronting on a portion or the whole of any such street or street, highway or highways, alley or alleys, as may be deemed advisable: *Provided, however,* That all such assessment districts shall, in all cases, extend back to the middle of the block fronting on such proposed improvement, and all lots or parcels of land as far back as the middle of the blocks fronting on such improvement, shall be deemed and be taken to front on such street or highway; and in the case of alleys, all lots and parcels of land in the block through which any such alley may run, shall be deemed to front on such alley: *And provided further,* That in all assessments and levies to pay the expense of any such improvement, the improvements on real property shall be assessed and taxed at the reasonable value of such improvements, and shall be deemed and taken to be part of the real property on which they are located. But unless the owners of more than one-half of the property subject to assessment for such improvement petition the council to make the same, such improvement shall not be made until a majority of five-sevenths of all the members of the council by vote assent to making of the same. And the expense of improvements heretofore made in accordance with the provisions of this section as hereby amended or in accordance with the provisions of law then in force and not paid prior to the passage of this amendment, shall be assessed and collected as herein provided, notwithstanding any prior assessment upon any other or different basis than herein provided, and such prior assessment or any attempt to collect the same shall be no bar to a recovery in any suit or proceeding to collect the amount due for such improvements upon the basis of assessments herein provided; and all assessments and levies of taxes heretofore made in accordance with the provisions of this section as hereby amended, or in accordance with the provisions of law in force at the time of making any such assessment or levy shall be deemed and taken to be legal and valid and of binding effect from the date of such levy or assessment.

**§ 2. Saving Clause.**—SEC. 2. None of the provisions of this act shall be so construed as to conflict with any of the provisions of any act passed at the present session of the legislative assembly legalizing any of the ordinances, levies or assessments of said city of Seattle.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1879. (See Seventh Blen. Sess. 1879, p. 198.) In effect from date.

<sup>2</sup> See No. 772 and 763, *supra*.

<sup>3</sup> See No. 773, § 1, *supra*.

<sup>4</sup> Curb.



**No. 776.—AN ACT TO LEGALIZE CERTAIN ORDINANCES AND PROCEEDINGS BY THE CITY OF SEATTLE, IN CONDEMNING A STRIP OF LAND FOR A PUBLIC STREET.<sup>1</sup>**

§ 1. **Ordinances 396 and 410 Legalized.**—SECTION 1. *Be it enacted, etc.*, That, whereas, the common council of the city of Seattle did, on the 4th day of June, 1883, pass a certain ordinance entitled "ordinance No. 396, for the extension of Jackson street and to provide for the condemnation of real estate necessary therefor," and whereas, the said common council did also, on the 6th day of July, 1883, pass another ordinance entitled "ordinance No. 410, to amend ordinance No. 396," each of which ordinances were duly approved by the mayor of said city and published as required by law, and whereas the said city of Seattle did, by virtue of the said above mentioned ordinances, proceed to condemn and make compensation for, and took possession of and expended large sums of money in grading and improving a strip of land for a public street known and called Jackson street, which said strip of land is bounded by lines running as follows: Commencing at the former eastern extremity of the south boundary line of Jackson street, in McNaught's second addition to the city of Seattle, and running thence easterly to the western extremity of the south boundary line of Jackson street in Burke's second addition to the city of Seattle; thence north sixty-six feet; thence westerly to the former eastern extremity of the northern boundary line of Jackson street in said McNaught's second addition to the city of Seattle; thence south sixty-six feet to the place of beginning; and whereas, by an inadvertence and clerical mistake the following words to wit: "Be and the same is hereby appropriated to the use of the public as and for a public street, to be called Jackson street," contained in the said ordinance No. 396 were omitted in the said amendment made by said ordinance No. 410, which said inadvertence and mistake was not discovered until after the proceedings and expenditures above mentioned had been made; now, therefore, the said ordinances and all proceedings thereunder are hereby declared legal and valid, and that the said above described strip of land is hereby declared to be a public street in the city of Seattle, to be known and called Jackson street.

§ 2. **Saving Clause.**—SEC. 2. This act shall not be so construed as to deprive any person or persons of the right to due compensation for any land taken by the said city of Seattle for said public street.

\* \* \* \* \*

<sup>1</sup> Passed the House Nov. 26, 1883. Passed the Council Nov. 27, 1883; approved (no date given). (See Ninth Blen. Sess. 1883, p. 417.) In effect from "date of approval."

**No. 776½.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF SEATTLE, APPROVED DECEMBER 2, 1869," APPROVED NOVEMBER 12, 1875, AND THE ACTS AMENDATORY THERETO, APPROVED NOVEMBER 9, 1877, AND NOVEMBER 13, 1879.<sup>1</sup>**

§ 1. **Acts Amended.**—SECTION 1. *Be it enacted, etc.*, That the act of the legislative assembly of the Territory of Washington, approved November 12, 1875,<sup>2</sup> entitled "An act to amend an act entitled An act to incorporate the city of Seattle, approved December 2, 1869," and the acts amendatory thereto, approved November 9, 1877,<sup>3</sup> and November 13, 1879,<sup>4</sup> be and the same are amended as follows, that is to say, the said

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Blen. Sess. 1883, p. 177.) In effect from date.

<sup>2</sup> See No. 772, *supra*.

<sup>3</sup> See No. 773, *supra*.

<sup>4</sup> See No. 775, *supra*.

several sections of said act and amendatory acts, hereinafter named, are amended to read as follows, to wit:

**Boundaries.**—SECTION 1. The city of Seattle shall include within its limits the following lands, premises and territory, to wit: The north half of section 17, all of sections 3, 4, 5, 6, 8, 9 and 10 in township 24 north, range 4 east, and the south half of sections 19 and 20, and all of sections 27, 28, 29, 30, 31, 32, 33 and 34 in township 25 north, range 4 east, and the south half of section 24, and all of section 25 in township 25 north, range 3 east, and including also the water fronting the said above described lands westward to the center of Elliott's bay and the Duwamish river, and eastward to the middle of Lake Washington.

**Protection from Fire: Taxation for.**—SEC. 4. The city of Seattle has power to make regulations for the prevention of accidents by fire; to organize and establish a fire department; ordain rules for the government of the same; to provide fire engines and other apparatus, and a sufficient supply of water; and to levy and collect special taxes for these purposes, not to exceed in any one year one-fifth of one per centum upon the taxable property within the city; \* \* \*

**Opening, Improving, etc., Streets, etc.: Taxation for.**—SEC. 7. The city of Seattle has power to provide for clearing, opening, graveling, improving, repairing and cleaning streets, alleys and highways, and for the prevention and removal of all obstructions therefrom, or from any crosswalk or sidewalk, and to regulate cellar ways and cellar lights on sidewalks, and to construct sewers, and clean and repair the same; and has power to assess, levy and collect each year a road tax and a road poll tax of not more than four dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except persons who are a public charge, and a special tax on property of not more than three mills on every dollar's worth of property within the city, which shall be expended for the purposes specified in this section, and the officers of the county shall not levy or collect any road or road poll tax upon the property or inhabitants of the city.

**Construction, etc., of Sidewalks, and Paving, etc., of Streets, etc.: Taxation for.**—SEC. 8. The city of Seattle shall have power to construct and repair sidewalks, and to curb, pave, grade, plank, macadamize and gutter any street or streets, highway or highways, alley or alleys therein or any part thereof, and to levy and collect a special tax or assessment on all lots or parcels of land fronting on such street or streets, highway or highways, or any part thereof, sufficient to pay the expense of such improvements, and for such purpose may establish assessment districts consisting of all lots and parcels of land fronting on a portion or the whole of any such street or streets, alley or alleys, highway or highways, as may be deemed advisable: *Provided, however,* That all such assessment districts shall in all cases extend back to the middle of the block fronting on such improvement, in case the land fronting on such improvement has been platted into blocks, and all lands and parcels of lands as far back as the middle of the block, and in case of lands not platted into blocks as far back as 128 feet from the line of the street fronting on such improvement shall be deemed and taken to front on such street or streets, highway or highways, and in case of alleys, all lots or parcels of land in the block through which any such alley may run shall be deemed to front on such alley: *Provided, further,* That in all assessments and levies to pay the expenses of such improvements, the real estate only shall be assessed, excluding from such assessment all improvements therein, whether the same are affixed to the land or not, and in such case the improvements on land shall not be taken or assessed as any part of the land, nor assessed at all: *And provided further,* That unless the owners of more than one-half of the property subject to assessment for such improvement, petition the council to make such improvements, the same

shall not be made unless seven members of the council are present and vote in favor of making the same.

**Establishing Grade of Streets, etc.—Appropriation of Private Property.**—SEC. 11. The city of Seattle has power to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city; and to lay off, widen, straighten, narrow, change, extend, vacate, and establish streets, highways, alleys and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes; and to levy and collect assessments upon all property benefited by any change or improvement authorized by this section, sufficient to make compensation for all property condemned or damaged; and to authorize or forbid the location and laying down of tracks for railways and street railways on any and all streets and alleys and public places within the city: *Provided*, That no street or alley shall be extended or vacated except by a vote of seven members of the council in favor thereof: *And provided further*, That any person or corporation laying down such railway shall be liable to the owners of property abutting on such street or streets, alley or alleys, for all damages and injury caused thereby to be ascertained on the petition of the property owners in the manner provided by chapter 188, section 2473 to 2476, inclusive, of the Code of Washington of 1881,<sup>5</sup> and the judgment and decree thereon shall be that the company or person shall pay such damages, and on such payment shall be entitled to such right-of-way, and if no petition for such compensation shall be filed within two years after the track is so laid, such claim shall be barred.

**Limitation of Debt.**—SEC. 24. The city of Seattle has power to borrow money on the credit of the city for any purpose within the authority of the corporation, including the payment of any existing debt, and for such purpose may issue warrants on the city treasurer, payable at a specified time, with a rate of interest therein named, such warrants to be drawn on the fund for which such money is borrowed; and has further power to levy and collect a tax sufficient to pay the principal and interest on such sum borrowed: *Provided*, That the indebtedness of the city must not exceed the sum of fifty thousand dollars at any one time, excluding indebtedness for water works and assessment, for improving streets, under the provisions of section 8 of this chapter.

\* \* \*  
**Officers.**—SEC. 35. There shall be appointed and elected \* \* \* treasurer, clerk, assessor, surveyor, and such other subordinate officers as the council may provide. \* \* \*

\* \* \*  
**Duties of Treasurer.**—SEC. 72. The city treasurer shall collect all delinquent taxes and assessments when required by warrant or law, \* \* \*

\* \* \*  
**Collection of Road Taxes.**—SEC. 81. The assessor shall annually make out a list of the names of all persons within the city who are liable to pay a road poll tax, as provided in section 7 of this act, and return the same to the council with his assessment of property. Said list shall be delivered to the treasurer with the tax list for collection, and he shall proceed to collect the same at the same time and manner that the road property tax is collected: \* \* \*

**Warrant for Collection.**—SEC. 84. The council must, within twenty days after the receipt of such tax roll, order and direct the city clerk to annex to such tax roll a warrant under the seal of the city, directed to and commanding the city treasurer to proceed forthwith to collect the delinquent

<sup>5</sup> See Nos. 460 and 458, *supra*, §§ 8 to 12, inclusive.

taxes upon such roll in accordance with law, and deliver the same to the city treasurer. Such warrant may be in the following form:

TERRITORY OF WASHINGTON, CITY OF SEATTLE.

To A B, treasurer of said city: Each and all of the taxes on the above tax roll for the year A. D. 18— not marked therein as paid, are delinquent. By order of the council of said city you are authorized and commanded to proceed forthwith to collect the same. Witness my hand with the seal of the city, this— day of —, 18—

(Seal.)

C D, City Clerk.

**Execution of Warrant.**—SEC. 85. Such warrant, for the purpose of collecting such taxes, shall be deemed and taken as an execution against the personal property of the persons in said tax roll named, and for the amount of tax therein charged against each, and the treasurer must at once proceed to collect the same by levy and sale of sufficient of the personal property of the several persons against whom the tax is charged.

\* \* \*

**Return of Roll.**—SEC. 86. On the first Monday of March each year, the treasurer shall make return of said delinquent tax roll to the city council, and must make and subscribe therein before the city clerk an affidavit, in substance, as follows:

TERRITORY OF WASHINGTON, CITY OF SEATTLE, SS.

I, A B, treasurer of the city of Seattle, do solemnly swear that I have made due diligence and search to find sufficient personal property subject to levy belonging to each person whose tax is now delinquent and unpaid on this tax roll, and that I have been unable to find any such property from which to make such tax. So help me God.

Subscribed and sworn to before me this— day of —, 18—

—, City Clerk.

**Order for Sale of Real Estate.**—SEC. 87. The city clerk shall, within ten days from the first Monday in March, enter in such tax roll an order under the seal of the city, in substance as follows:

TERRITORY OF WASHINGTON, CITY OF SEATTLE, SS.

To A B, treasurer of said city: You are commanded to proceed to sell, for the payment of the delinquent and unpaid taxes on the within tax roll for the year 18..., with interests and costs, all the real estate mentioned and described therein, upon which taxes are levied, whether in the name of a designated owner or in the name of an unknown owner.

Witness my hand with the seal of the city this— day of —, 18—

(Seal.)

—, City Clerk.

**Manner of Sale of Real Estate.**—SEC. 88. On the fourth Monday in April each year at 10 o'clock A. M. at the front door of the building in which the city council holds its sessions, the city treasurer or his deputy must commence the sale of real estate named in said tax roll for the preceding year, upon which the taxes have not been paid. The treasurer shall give the same notice and proceed in the same manner to make such sales that the sheriff is required to give and do by the provisions of sections 2917, 2918, 2919, 2920 of the Code of Washington of 1881,\* and shall execute to the purchaser a certificate of purchase for the lands and lots sold to him, stating the amount paid therefor; and any number of lots and parcels of lands sold to one person may be included in one certificate, but the amount paid for each parcel shall be separately stated. Such receipt shall be signed by the treasurer in his official capacity. Such certificate shall be *prima facie* evidence of the regularity of all prior proceedings.

**Return of Roll.**—SEC. 89. On or before the first Monday of May each year the treasurer must make return to the city clerk of said tax roll with a statement of his doings thereon, showing all lands and lots sold by him, to whom sold and the sum paid therefor, which tax roll shall remain on file in the office of the clerk, and any and all delinquent and unpaid taxes therein charged shall be carried forward and charged to the person and the lands on the tax roll for the year following that for which such taxes were levied.

**Purchaser's Lien for Taxes, etc.**—SEC. 90. The purchaser at tax sales acquires a lien on the lots and lands sold for the taxes, interest and costs paid by him at such sale being for the whole amount bid and paid by him

\* See No. 672, *supra*, §§ 39, 40, 41, 42.

as well as for all taxes subsequently paid by him on the lands and lots and shall be entitled to interest thereon at the rate of twenty per cent. per annum from the date of such payment.

**Redemption: Limitation and Manner of—Tax Deed.**—SEC. 91. All lots and parcels of land sold for taxes shall be subject to redemption by the former owner or his grantee or heir, within three years from the date of the certificate of purchase, on payment to the city treasurer, for the purchaser, of the amount the same was sold for, with twenty per cent. interest per annum, together with the costs and charges and taxes since such sale paid thereon by the purchaser, with like interest thereon. And on such redemption being made the treasurer shall give to the redemptioner a certificate of redemption therefor, and pay over the amount received for such redemption to the purchaser or his assigns. Should no redemption be made within the period of three years the treasurer shall, on demand by the purchaser or his assigns, and the surrender of the certificate, execute to him a deed for such lands and lots therein described. Such deed shall be executed only for the lands and lots named in the certificate, and after payment of all subsequent taxes thereon. The deed shall be executed in the name of the city of Seattle, shall recite in substance the matters contained in the certificate, and that no redemption has been made of the property within the time allowed by law. Such deed shall be signed and acknowledged by the city treasurer as such, and shall be recorded within six months from its date. The deed shall be *prima facie* evidence that the property was assessed as required by law, that it was equalized as required by law, that the taxes were not paid, that the property was sold as required by law, that it was not redeemed, and that the person executing the deed was the proper officer, and the deed shall be conclusive evidence of the regularity of all other proceedings from the assessment by the assessor, inclusive, up to the execution of the deed.

§ 2. **Collection of Taxes, etc.**—SEC. 2. Sections 72,<sup>7</sup> 81<sup>8</sup> \* \* \* and 103<sup>9</sup> of said act are hereby repealed.

§ 3. **Saving Clause.**—SEC. 3. Wherever the word marshal occurs in said act the same shall be taken and held to mean chief of police, and wherever the word collector is used the same shall be taken and held to mean city treasurer. The foregoing amendments and none of them shall in anywise affect or impair any act done or contract made, or tax or assessment assessed or levied, but such contracts, acts and taxes shall remain and be enforced and collected in the same manner as if these amendments had not been made: *Provided*, That the general municipal taxes, and road taxes levied under the provisions of sections 2 and 7, shall be collected by the officers and in the manner herein provided.

- \* \* \* \* \*
- <sup>7</sup> See Nos. 772 and 763, § 23, *supra*.  
<sup>8</sup> See *ibid.*, § 25.  
<sup>9</sup> See *ibid.*, § 38.

**No. 777.—AN ACT TO REVISE AND AMEND THE CHARTER OF THE CITY OF SEATTLE.<sup>1</sup>**

§ 1. **Certain Acts Amended.**—*Be it enacted, etc.* SECTION 1. That the act of the legislative assembly of the Territory of Washington, approved December 2, 1869,<sup>2</sup> entitled "An act to incorporate the city of Seattle," and the several acts amendatory thereof, approved November 12, 1875,<sup>3</sup> November 9, 1877,<sup>4</sup> November 13, 1879,<sup>5</sup> and November 28,

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 238.) In effect from date.  
<sup>2</sup> See No. 768, *supra*.  
<sup>3</sup> See No. 772, *supra*.  
<sup>4</sup> See No. 773, *supra*.  
<sup>5</sup> See No. 775, *supra*.



1883,\* be and the same are hereby so revised and amended as to read as follows, and the same as hereby revised and amended are continued in force, and hereby reenacted, that is to say:

#### CHAPTER I.

§ 2. **Boundaries.**—SEC. 1. The city of Seattle shall include within its limits the following lands, premises, and territory, to wit: The north half of section 17, all of sections 3, 4, 5, 6, 8, 9 and 10, in township 24 north, of range 4 east, and the south half of sections 19 and 20, and all of sections 27, 28, 29, 30, 31, 32, 33 and 34, in township 25 north, of range 4 east, and the south half of section 24, and all of sections 25 and 36, in township 25 north, of range 3 east, and including also the water fronting said above described land westward to the center of Elliott's bay and the Duwamish river, and eastward to the middle of lake Washington, and all the water of lake Union south of a line running east and west through the center of sections 19 and 20, in township 25 north, of range 4 east.

§ 3. **General Powers.**—SEC. 2. The inhabitants within the city of Seattle are hereby constituted and declared to be a municipal corporation, by the name and style of the "City of Seattle," and by that name shall have perpetual succession, may sue and be sued, plead or be impleaded in all courts of justice, contract and be contracted with, acquire, hold, sell and convey property, real and personal, and have and use a common seal and attest† the same at pleasure.

#### CHAPTER II.

§ 4. **General Powers of Taxation.**—SEC. 3. The city of Seattle has power to assess, levy and collect taxes for general municipal purposes, not to exceed two-fifths per centum per annum, upon all the property, both real and personal, within the city, which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided. But all taxes for general and special municipal purposes, exclusive of assessments for improvements, as hereinafter provided in sections 8, 9 and 11, shall not in any year exceed one and one-half per centum on the property assessed.

§ 5. **Protection From Fire: Taxation for.**—SEC. 4. The city of Seattle has power to make regulations for the prevention of accidents by fire, to organize and establish a fire department, ordain rules for the government of the same, to provide fire engines and other apparatus, and a sufficient supply of water, and to levy and collect special taxes for these purposes, not to exceed in any one year one-fifth of one per centum upon all the taxable property within the city. \* \* \*

§ 6. **Appropriation of Private Property for Streets, etc.—Conveyances.**—SEC. 5. The city of Seattle has power to purchase or condemn and enter upon and take any lands within or purchase any lands without its territorial limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for work houses or houses of correction, or any other proper and legitimate municipal purpose, and to enclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes, not exceeding one-fifth per centum in any one year. The city shall have entire control of all such buildings, and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may be hereafter dedicated to public use by any person or persons; and has power, in case such lands are deemed unsuitable or insufficient for the purposes in-

† Alter.

\* See No. 776½, *supra*.

tended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city, or the public, existing prior to such conveyance. But when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

**§ 7. Lighting Streets, etc.: Taxation for.**—SEC. 6. The city of Seattle has power to provide for the lighting of the streets and furnishing the city with gas or lights, and for the erection or construction of such works as may be necessary or convenient therefor; and has power to levy and collect for these objects a special tax not exceeding one-fifth of one per centum per annum upon the taxable property within the limits of the benefit of such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section; and all such taxes shall only be assessed upon and collected from property within said limits.

**§ 8. Opening, Improving, etc., Streets, etc.: Taxation for.**—SEC. 7. The city of Seattle has power to provide for clearing, opening, graveling, planking, improving, repairing and cleaning its streets, alleys and highways, and for the prevention and removal of all obstructions therefrom and from any crosswalk or sidewalk, and to repair sidewalks and to regulate cellar ways and cellar lights in sidewalks; and to construct sewers and to clean and repair the same; and has power to assess, levy and collect each year a road poll tax of not more than four dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except persons who are a public charge, and a road tax on all taxable property within the city of not more than three mills on every dollar's worth of said property, which taxes shall be expended for the purposes specified in this section; and all improvements of the character specified in this section to streets, alleys and highways must be paid for out of the fund arising from the taxes authorized by this section; and the officers of King county shall not assess, levy or collect any road tax or poll tax upon the property of inhabitants of said city.

**§ 9. Construction of Sidewalks, etc., and Paving, etc., Streets, etc.: Taxation for.**—SEC. 8. The city of Seattle shall have power to construct sidewalks, and to curb, pave, grade, macadamize and gutter any street or streets, highway or highways, alley or alleys therein, or any part thereof, and to levy and collect special taxes or assessments on all lots and parcels of land fronting on any such street or streets, alley or alleys, highway or highways, so improved, or any part thereof, sufficient to pay the expense of such improvement; and for such purpose may establish assessment districts, embracing all lots and parcels of land subject to assessment for such purposes. In all cases where any street or highway so improved is located in or extends through platted land, all lots and parcels of land situated between the termini of such improvement and between the margins of such street or highway and the middle of each block adjoining the same, and all unplatted land situated within one hundred and twenty-eight feet of such street or highway, and between the termini of such improvement, shall be deemed to front upon such streets or highway, and shall be subject to assessment for such improvement; and in case of alleys, all lots and parcels of land in the block through which any such alley extends, shall be deemed to front on any such alley, and shall be subject to assessment for improving the same: *Provided, however,* That in all cases of special assessments under the provisions of this section, improvements upon land, whether affixed to the same or not, shall not be taxed or assessed as a part of the land, nor assessed at all: *And provided further,* That all special assessments for street improvements heretofore, as well as hereafter, levied upon lands of the United States, the Territory of Washington, the Territorial University, the county of King, the city of Seattle, or any school district or other untaxable property, shall be paid

by the city of Seattle out of its general road fund: *And provided further*, That unless the owners of more than one-half of the property subject to assessment for any improvement for which an assessment may be levied under the provisions of this section petition the council to make such improvement, the same shall not be made unless authorized at a regular meeting of the council by a vote of all the members present in favor thereof.

**§ 10. Removal of Certain Nuisances — Collection of Expense. — SEC.**

9. The city of Seattle has power to compel the owners and occupants of lands, buildings or premises within the city at their own expense to properly drain the same, or drain or clean any vaults, cesspool, ditch, pipe or drain therein used as a receptacle or a conductor of filth or refuse matter, and to assess all expenditures of the city in draining private premises upon such premises. Every such assessment shall be a lien upon the premises so drained, and such assessment may be collected and the lien enforced by a suit in the name of the city or any officer, contractor or contractors to whom it shall have directed payment to be made. If any premises are so situated as to collect water or drainage and to hold the same upon the surface until it becomes stagnant and offensive to the public, and drainage of such premises be impracticable from any cause, the city may compel the owner of such premises to fill the same at his own expense, or cause such work to be done, and assess the costs thereof upon such premises, and every such assessment shall be a lien thereon and may be collected, and such lien may be enforced as in this section above provided. This section shall not be so construed as to authorize special assessments for public sewers constructed by the city for general use. And in all cases where an embankment shall be made by the city in any street, the city must provide suitable culverts through the same to drain the surface water from the property abutting upon such embankment.

**§ 11. Lien and Collection of Assessments. — SEC. 10.** The city of Seattle has power, by general ordinance, to prescribe the mode in which the costs and expenses of all public improvements which, by the provisions of this act, are to be provided for and paid by special assessments upon property shall be divided, apportioned, assessed and collected. All such special assessments shall be liens upon the respective lots and parcels of land subject thereto, as provided in this act, from the date of the ordinance levying such assessment. Such assessments may be collected, and such liens may be enforced, by actions at law or suit in equity, either in the name of the city of Seattle or of the officer, or any contractor or contractors to whom it shall have directed payment to be made; and in any such action or suit, it shall be a sufficient statement of the cause of action in the complaint to allege the making and completion of the improvement, describing it, and the amount of the assessment on the premises proceeded against, giving an accurate description thereof, and the amount of such assessment remaining unpaid, and the names of the owner of and each person having an interest in such premises at the time of commencing the action or suit. In any such action or suit if it shall appear to the court on the trial thereof that the work has been done or material furnished in making improvements authorized by the council for which, under the provisions of this act, special assessments may be levied, the court shall decree against the premises and in favor of the city or other proper party plaintiff to the extent of the proportion of the reasonable value of such work or materials justly chargeable to such premises, notwithstanding any defect, informality or irregularity in the proceedings. But in such case if defects, informalities or irregularities prejudicial to the party objecting on account thereof appear, the court, in its discretion, may disallow any part or the whole of the plaintiff's costs or allow costs to the defendant; and if the assessment proceedings shall appear to be regular, the plaintiff shall be entitled to include in the recovery the full

amount of the assessment and interest thereon at the rate of ten per cent. per annum from the time when the assessment shall have become delinquent, and five per cent. additional as penalty and damages for delay.

**§ 12. Establishing Grade of Streets, etc.—Street Railways.—SEC. 11.** The city of Seattle has power to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, narrow, change, extend, vacate and establish streets, highways, alleys and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvement authorized by this section, sufficient to make compensation for all property condemned or damaged, and to authorize or forbid the location and laying down of tracks for railways and street railways on any and all streets and alleys and public places within the city: *Provided*, That no street or alley shall be extended or vacated except by a vote of six members of the council in favor thereof: *And provided further*, That any person or corporation laying down such railway shall be liable to the owners of property abutting upon such streets, alley or alleys for all damages or injury caused thereby, to be ascertained on the petition of the property owners in the manner provided by chapter 188, sections 2478 to 2576, inclusive, of the Code of Washington of 1881,<sup>7</sup> and the judgment and decree thereon shall be that the company or persons shall pay such damages, and on such payment shall be entitled to such right-of-way; and if no petition for such compensation shall be filed within two years after the track is so laid, such claim shall be barred.

**§ 13. Erection, etc., of Water Works.—SEC. 12.** The city of Seattle has power to erect and maintain water works, or to authorize the erection of the same, for the purpose of furnishing the city with a sufficient supply of water, but no such works shall be erected by the city until a majority of the voters of the city, at a general election of the city, shall vote upon the same.

**§ 14. Term of Franchise for Water Works.—SEC. 13.** If the right to construct and operate such water works is granted to private individuals or incorporated companies by the city of Seattle, it may make such grant to inure for term of not more than twenty-five years, and may authorize such individual or company to charge and collect from each person supplied by them with water such water rent as may be agreed upon between said person or corporation so building such water works and said city; \* \* \*

**§ 15. Appropriation of Land for Water Works.—SEC. 14.** The city of Seattle is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works; and if it shall authorize the construction and operation thereof by individuals or private corporations, it may confer by ordinance upon such person or persons or corporation the said power to take and appropriate private property for such purpose.

**§ 16. Purchase and Maintenance of Water Works: Taxation for.—SEC. 15.** The city of Seattle shall have power, at the regular term for levying taxes in any year, to levy and collect a special tax, not exceeding one-half of one per centum upon the taxable property within the limits prescribed, as hereinafter provided, for the purpose of constructing such water works: *Provided*, No such tax shall be levied for the purpose of aiding any private individual or corporation; and such works shall have been constructed, the city of Seattle shall have power to assess and collect, from time to time, in such manner as the city council shall deem

<sup>7</sup> See No. 460, *supra*.

equitable, from each tenement or other place supplied with water such water rent as may be deemed reasonable; and at the regular time for levying taxes in each year to levy and collect, in addition to the tax already authorized by this section, a special tax on taxable property within the limits prescribed as hereinafter provided sufficient, with the water rents hereby authorized, to pay the expenses of running and operating such works, and if the right to build, maintain and operate such water works shall be granted to private individuals or corporations by the city, and the city shall contract with such individual or corporation for a supply of water for any purpose, said city shall levy and collect each year a special tax sufficient to pay off such water rent to such individual or company: *Provided*, That said taxes shall not exceed one-half of one per centum upon the taxable property within the limits of the benefits and protection of such work, which limits shall be fixed by the city council each year before levying any tax authorized by this section. And all such taxes shall only be assessed upon and collected from property within said limits.

\* \* \* \* \*

**17. Limit of Indebtedness.**—SEC. 24. The city of Seattle has power to borrow money on the credit of the city for any purpose within its authority, including the payment of any existing debt; and may issue negotiable bonds or negotiable warrants on the city treasury, payable at a specified time, bearing interest at a rate to be therein named, not exceeding ten per centum per annum. Such bonds or warrants must specify the particular fund out of which the same are to be paid, and shall be paid out of the fund so specified; and the city shall levy and collect taxes within the limitations prescribed by this act sufficient to redeem all such bonds or warrants: *Provided*, That the indebtedness of the city must not at any time exceed the sum of sixty thousand dollars, exclusive of indebtedness for water works and street improvements made under the provisions of section eight of this act.

**§ 18. May Adopt Proper Ordinances.**—SEC. 25. The city of Seattle has power to adopt proper ordinances for the government of the city, and to carry into effect the powers given by this act. \* \* \*

\* \* \* \* \*

**§ 19. Incidental Powers.**—SEC. 27. The city of Seattle has \* \* \* such other powers and privileges, not herein specifically enumerated, as are incident to municipal corporations of like character and degree, or necessary for carrying into effect the provisions of this act, according to the true intent and meaning thereof.

\* \* \* \* \*

### CHAPTER III.

**§ 20. Government.**—SEC. 28. the power and authority given to the municipal corporation by this act shall be vested in the mayor and common council, together with such other officers as are in this act mentioned or may be created under its authority.

\* \* \* \* \*

**§ 21. Officers.**—SEC. 31. There shall be appointed or elected \* \* \* treasurer, clerk, surveyor and such other subordinate officers as the council may provide. \* \* \*

\* \* \* \* \*

### CHAPTER VI.

**§ 22. Powers of The Council.**—SEC. 48. The city council shall possess all the legislative powers granted by this act and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

\* \* \* \* \*



CHAPTER VIII.

\* \* \* \* \*

§ 23. **Collection of Assessments.**—SEC. 67. The treasurer is the collector of taxes and the receiver and disbursing officer of the moneys of the city. He shall collect all taxes and assessments levied by the city and all moneys and revenues coming to the city by taxation or otherwise, and pay out the same only upon warrants signed by the mayor and clerk: *Provided*, That special assessments for local improvements may be by authority of the council collected by any contractor or contractors with the city.

\* \* \* \* \*

§ 24. **Annual Assessment—Tax List.**—SEC. 70. The assessor of King county must, after the first Monday of April, 1886, make an assessment roll and tax list in books to be furnished him by the city, in such form as the council may prescribe, containing a list of all taxpayers, including persons subject to a poll tax, and a list and description, with the value thereof, of all taxable property, real and personal, within the city of Seattle, and deliver such assessment roll and tax list to the city clerk at the time of returning the assessment roll to the county in each year. And for his services in making each assessment roll and tax list, the city shall pay to the said assessor the sum of two hundred and fifty dollars, unless a different sum or rate of compensation shall be mutually agreed upon by said assessor and the council. Each such assessment roll and tax list may be revised, added to or otherwise corrected, and the valuations of property thereon be equalized by the council at such time in each year as may be prescribed by ordinance of the city; and after completing the revision and equalization of such assessment roll and tax list, the council shall adopt the same for all purposes of taxation and assessment within the city for the year in which the same is made.

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CHAPTER IX.

§ 25. **Ordinances.**—SEC. 78. The style of every ordinance shall be, "The city of Seattle does ordain as follows." All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all the members of the council. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no ordinance or section thereof shall be revised or amended, unless the new ordinance contain the entire ordinance or section revised or amended; and the ordinance or section so amended shall be repealed.

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CHAPTER X.

§ 26. **Warrant for Collection of Taxes.**—SEC. 81. The common council shall, annually, upon completing the revision of the assessment roll, assess and levy the taxes for the current year, and fix such rate of taxation as they may deem necessary for the purposes authorized by sections 3, 4, 5, 6, 7 and 16 of this act; and within twenty days thereafter the city clerk shall extend upon said assessment roll and tax list the taxes so assessed and levied; and at the first regular meeting of the council after the completion of said tax list by the clerk, the council shall order the clerk to issue the same, with a warrant for the collection of taxes therein, to the city treasurer. Such warrant may be in the following terms:

TERRITORY OF WASHINGTON, CITY OF SEATTLE, SS.

To ———, Treasurer of said City:

Each and all of the taxes on the above tax roll for the year A. D. 18—, have been assessed and levied by authority of said city; and by order of the council of said city, you are authorized and commanded to proceed forthwith to collect the same.

Witness my hand and the seal of the city this — day of —, 18—.

[SEAL.]

———, Clerk.

§ 27. **Force and Effect of Warrant.**—SEC. 82. Such warrant, for the purpose of collecting such taxes, shall be deemed and taken as an execution against the personal property of the persons in said tax roll named, and for the amount of tax therein charged against each, and the treasurer must at once proceed to collect the same by levy and sale of sufficient of the personal property of the several persons against whom the tax is charged. \* \* \*

§ 28. **When Taxes Become Delinquent.**—SEC. 83. The council must provide, by ordinance, within what time all taxes levied as provided and authorized in chapter II may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes and must be collected as such by levy upon and sale of personal property of the delinquents in the manner provided in the preceding section, if sufficient personal property for the purpose be found within the city.

§ 29. **Return of Roll.**—SEC. 84. Within seventy days after the day on which taxes become delinquent in each year the treasurer shall return the tax roll and warrant to the council, and must make and subscribe therein before the city clerk an affidavit. \* \* \*

§ 30. **Warrant for Sale of Real Estate.**—SEC. 85. At its first regular meeting after the return of the tax roll, as provided in the preceding section, the council shall order the clerk to enter in such tax roll a warrant, under the seal of the city, for the sale of real estate for delinquent taxes returned as uncollected, which warrant shall be substantially as follows:

TERRITORY OF WASHINGTON, CITY OF SEATTLE, SS. 8

§ 31. **Manner of Sale of Real Estate.**—SEC. 86. At a time to be fixed and designated in the treasurer's notice of sale, which time shall be within five weeks after he received the roll with the warrant for the sale of real estate in each year, at the front door of the building in which the city council holds its sessions, the city treasurer or his deputy must commence the sale of real estate named in said tax roll for the preceding year upon which the taxes have not been paid. The treasurer shall give the same notice and proceed in the same manner to make such sales that the sheriff is required to give and do by the provisions of sections 2917, 2918, 2919 and 2920 of the Code of Washington of 1881,<sup>8</sup> and shall execute to the purchaser a certificate of purchase for the lands and lots sold to him, stating the amount paid therefor; and any number of lots and parcels of land sold to one person may be included in one certificate, but the amount paid for each lot or parcel shall be separately stated. Such receipt shall be signed by the treasurer in his official capacity. Such certificate shall be *prima facie* evidence of the regularity of all prior proceedings.

§ 32. **Return of Roll.**—SEC. 87. Within five weeks from the day of commencing the sale of real estate for taxes, as provided in the preceding section, the treasurer shall make and file with the clerk a report in such form as the council may prescribe, of real estate sold for taxes, containing a list and description of the lots and parcels of land sold, and showing to whom the same were assessed, to whom sold, the price paid therefor and the date of sale; which report shall remain on file in the office of the clerk. The tax roll shall remain in the hands of the treasurer, and all delinquent and unpaid taxes therein charged shall be carried forward and charged to the same persons and lands on the tax rolls for each succeeding year until the same shall be paid or collected by sale of property as other taxes. Notwithstanding the treasurer's return thereof, the warrant issued as provided in section 82 of this act shall remain in full force and virtue until all taxes charged in each assessment roll shall be collected or carried forward and charged upon the tax roll for the next

<sup>8</sup> The form of the warrant does not appear.

<sup>9</sup> See No. 672, §§ 39, 40, 41, 42, *supra*.

succeeding year; and by virtue thereof the treasurer shall collect delinquent taxes whenever he shall find personal property of a delinquent to levy upon within the city; and delinquent taxes upon real estate remaining unsold after the close of tax sales of real estate may be paid to the treasurer at any time.

§ 33. **Purchaser's Lien for Taxes.**—SEC. 88. The purchaser at tax sales acquires a lien on the lots and lands sold for the taxes, interest and costs paid by him at such sale being for the whole amount bid and paid by him, as well as for all taxes subsequently paid by him on the lands and lots, and shall be entitled to interest thereon at the rate of twenty per cent. per annum from the date of such payment.

§ 34. **Redemption: Limitation and Manner of—Tax Deed.**—SEC. 89. All lots and parcels of land sold for taxes shall be subject to redemption by the former owner or his grantee or heir, within three years from the date of the certificate of purchase on payment to the city treasurer, for the purchaser, of the amount the same was sold for with twenty per cent. interest per annum, together with the costs and charges and taxes since such sale paid thereon by the purchaser, with like interest thereon. And on such redemption being made, the treasurer shall give to the redemptioner a certificate of redemption therefor, and pay over the amount received for such redemption to the purchaser or his assigns. Should no redemption be made within the period of three years, the treasurer shall, on demand by the purchaser or his assigns and the surrender of the certificate, execute to him a deed for such lands and lots therein described. Such deed shall be executed only for the lands and lots named in the certificate, and after payment of all subsequent taxes thereon. The deed shall be executed in the name of the city of Seattle, shall recite in substance the matters contained in the certificate, and that no redemption has been made of the property within the time allowed by law. Such deed shall be signed and acknowledged by the city treasurer as such, and shall be recorded within six months from its date. The deed shall be *prima facie* evidence that the property was assessed as required by law, that it was equalized as required by law, that the taxes were not paid, that the property was sold as required by law, that it was not redeemed, and that the person executing the deed was the proper officer, and the deed shall be conclusive evidence of the regularity of all other proceedings from the assessment by the assessor, inclusive, up to the execution of the deed.

§ 35. **Liens and Rate of Interest on Taxes.**—SEC. 90. All general and special taxes levied as provided and authorized in chapter II of this act, and every part thereof, shall bear interest at the legal rate from the time of becoming delinquent until paid or collected; and all such taxes assessed upon real estate, or against persons owning real estate within the city, shall be liens upon such real estate from the date of the assessment.

#### CHAPTER XI.

\* \* \* \* \*

§ 36. **Action Concerning Assessments, etc.—Discretion of Council.**—SEC. 95. In any action, suit or proceeding in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith, shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.

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**§ 37. What Shall Not be Necessary to Recite in Deed.—SEC. 97.** In making a deed for real property sold for delinquent taxes, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city of Seattle, and the note thereof for a delinquent tax, and the amount thereof, together with the date of the sale and the amount paid thereat by the purchaser.

\* \* \* \* \*

**§ 38. Assessment of Acreage.—SEC. 99.** All real property within the limits of the city of Seattle not laid off in blocks at the time of making any assessment authorized by this act, must be assessed at its cash value per acre, or fraction thereof, as the case may be.

**§ 39. Appraisement and Settlement of Damages for Establishing Grade of Streets.—SEC. 100.** When the grade of any street, highway or alley shall have been established by authority of the city of Seattle, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterwards change such established grade, or shall change the boundary lines of any block, street, highway or alley in such a manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage, and when the parties interested are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two so appointed, or in case of their disagreement, by the city council; such appraisers shall be sworn to faithfully execute their duties, according to the best of their ability. They shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment. They shall assess the damage sustained, over and above the additional value of the property, by reason of the change or improvement. They shall sign their report and deliver the same to the clerk of the district court holding terms at Seattle, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final, and the city shall pay the amount so assessed, and upon filing a precipe therefor, the party entitled may have judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk shall, upon filing a written precipe therefor, by the city or any person agreed (aggrieved), within twenty days, enter the case upon the trial docket for the next term. The party claiming damages shall be plaintiff, and the city shall be defendant. The usual pleadings in a civil action may be filed, or such special pleadings as the court shall allow, and the issues thus formed shall be tried as other civil actions. The costs to be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the cause has been tried at the instance of the city for the purpose of reducing the amount of damages and the damages are not so reduced, otherwise the costs shall be taxed against the party claiming damages.

**§ 40. Appropriation and Settlement of Damages for Appropriation of Private Property.—SEC. 101.** When private property shall have been condemned, and the compensation to be paid therefor shall be made a charge upon the property to be benefited thereby, as provided in section two of this act, the assessment upon the various lots or parcels of land so charged and the appraisement of damages to be paid to the owners of the property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property subject to the assessment and one by the owner or owners of the property condemned or damaged; or if either or both said classes of property owners shall fail or refuse to make such appointment after ten days' no-

tice so to do, which notice shall be given in the manner prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn; shall proceed in making the assessment and shall report within the time and in the manner prescribed for making appraisements in the preceding section; their award shall be final unless objection is made within twenty days from the time of the return thereof to the clerk of the district court. Any party aggrieved by the award may, upon filing a precipe therefor, have the case docketed for trial at the next term of the court; when the issue in such case is between an owner of the property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair assessments upon property, the city shall be plaintiff and the owner of the property defendant. The issue shall be made up, the cause tried and determined, and the costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city, and all costs for the appraisal and other proceedings under this section shall be added to the gross amount to be raised by assessment and collected from the several property holders in the same proportion as said gross amount; and said assessments and costs shall be a lien upon the property therein charged.

§ 41. **Settlement of Damages in Other Cases.**—SEC. 102. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

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§ 42. **Saving Clause.**—SEC. 105. The provisions of this act shall not affect or impair the validity of any ordinance or any act done, contract made or tax or assessment assessed or levied prior to the time this act takes effect; but such acts, contracts, taxes and assessments shall remain valid and be in force and collected in the same manner as if this act had not been passed: *Provided*, That general municipal and road taxes, for purposes authorized by sections 3, 4, 5, 6, 7 and 16, shall be collected in the manner herein provided. All the provisions of this act which are identical with previous enactments not heretofore expressly repealed shall be construed as continuations of such previous enactments, and not as new enactments; and all the present incumbents of city offices, except assessor and councilmen, shall remain in their respective offices until the expiration of their present terms and until their successors are elected and qualified, as herein provided, unless vacancies occur in the manner specified in this act.

§ 43. **Clause Repealed.**—SEC. 106. All the provisions of the several acts enumerated in section 1 of this act, not contained and reenacted herein, and all acts or parts of acts in conflict with this act are (except as provided in the preceding section) hereby repealed.

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## CHAPTER XVI.—CITY OF SNOHOMISH.

No. 778.—AN ACT TO INCORPORATE THE CITY OF SNOHOMISH.<sup>1</sup>

## CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Snohomish shall include within its limits the following described tracts of land, namely: Commencing at a point on the north bank of the Snohomish river forty (40) rods west of the township line between townships number twenty-eight (28) north, of range number six (6) east, and township number twenty-eight (28) north, of range number five (5) east, in section thirteen (13) of the last named township, thence north sixty (60) rods; thence east two hundred (200) rods; thence south two hundred and forty (240) rods; thence west to the bank of the Snohomish river; thence northerly and westerly along the meanderings of said Snohomish river to the place of beginning. All situated in Snohomish county, Washington Territory.

§ 2. **General Powers.**—SEC. 2. The inhabitants within the above described limits are hereby constituted and declared to be a municipal corporation by the name and style of the "City of Snohomish," and by that name shall have perpetual succession, and may sue or be sued, plead or be impleaded in all courts of justice, contract and be contracted with, may purchase, hold, receive, sell and convey property, real and personal, and may have and use a common seal, and alter the same at pleasure.

§ 3. **Collection of Road Taxes.**—SEC. 3. The corporate limits aforesaid shall not be included within any road district, but shall be an independent road district under the exclusive control of said city corporation, nor shall the county commissioners of Snohomish county have any jurisdiction over the expenditures of road tax collected therein; and so much of any county public road as lies within said corporation, shall be kept in repair by the council of said city. But the said council may by ordinance vacate said road or parts thereof, and conform the same to opened and established streets. All road taxes, whether road poll or road property taxes, levied, assessed or collected by virtue of the general road and revenue laws of the Territory of Washington within the corporate limits of said city, shall belong to said city, and be expended therein under the authority and direction of the common council thereof. Delinquent road taxes due within said city shall be collected as other delinquent road taxes are collected under the general laws of the Territory; and all road taxes, whether road poll or road property, levied or assessed within said city limits, paid to the county treasurer when other taxes are paid, or collected as delinquent or redeemed delinquent taxes, less the commissions for or expenses of collecting, shall be paid by said county treasurer to the city treasurer on demand made by the latter.

§ 4. **School District.**—SEC. 4. Said corporate limits shall constitute one school district entitled to receive and enjoy its separate share of the common school fund of the county, and maintain schools therein.

## CHAPTER II.

§ 5. **Government.**—SEC. 5. The power and authority given to the municipal corporation by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned, or may be created under its authority.

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<sup>1</sup>Approved Nov. 24, 1883. (See Ninth Blen. Sess. 1883, p. 295.) In effect from date.

§ 6. **Officers.**—SEC. 8. There shall be elected \* \* \* a marshal, clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner and assessor, and collector, who shall be officers of the municipal corporation, \* \* \*

\* \* \* \* \*

CHAPTER V.

§ 7. **Style of Ordinances.**—SEC. 24. The style of every ordinance shall be, "The city of Snohomish does ordain as follows."

§ 8. **Ordinances.**—SEC. 25. An ordinance shall not refer to more than one subject, which shall be clearly expressed in its title; and no ordinance or section thereof shall be revised or amended, unless the new ordinance contains the entire ordinance or section revised or amended, and the ordinance or section so amended shall be repealed.

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CHAPTER VI.

§ 9. **General Powers of Taxation.**—SEC. 29. The city government of Snohomish has power and authority—(1) To levy and collect taxes for general municipal purposes, not to exceed five mills on the dollar per annum upon all property, both real and personal, within the city which is by law taxable for Territorial and county purposes, upon the valuation shown by the annual assessment made by Snohomish county; and to levy and collect special taxes upon the same assessed valuation as hereinafter provided. But all taxes for general and special municipal purposes exclusive of claims against property owners for improvements as hereinafter provided, shall not exceed, in any one year, one and a half per centum of the property assessed.

**Protection from Fire: Taxation for**—(2) To make regulations for prevention of accidents by fire; to organize and establish a fire department; ordain rules for the government of the same; to provide fire engines and apparatus and a sufficient supply of water, and to levy and collect a special tax of not to exceed three mills for either of such purposes. \* \* \*

**Appropriation of Private Property for Streets, etc.—Conveyances.**—(3) To purchase or condemn and enter upon and take any lands within or without the corporate limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon. The city shall have entire control of all such buildings and all lands purchased or condemned under the provisions of this subdivision, and all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city on the public, existing prior to such conveyance; but when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

**Lighting Streets, etc.: Taxation for.**—(4) To provide for the lighting of the streets and furnishing the city with gas or other lights, and for the erection or construction of such works as may be necessary or convenient therefor, and has power to levy for either of said objects a special tax not exceeding two mills, or the expense of lighting said city may be paid out of the general fund.

**Opening, Improving, etc., Streets, etc.: Taxation for.**—(5) To provide for opening, cleaning, clearing, grading, graveling, bridging, paving, macadamizing, curbing, guttering, draining or any other manner of improving or repairing of streets, highways and alleys for the construction and repairing of sidewalks upon said streets, highways and alleys, and to regulate cellarways and cellar lights. Said improvements shall not, however, be made at the expense of the owners of said lots or parcels of land fronting upon such street, highway or alley, or portion thereof proposed to be improved in either of the manners herein recited, unless the owners of more than one-half of the property fronting upon the proposed improvement shall have petitioned the common council to order such improvement to be made.

**Removal of Certain Nuisances: Collection of Expense.**—(6) To cause any lot of land within its limits on which water at any time becomes stagnant to be drained or filled up; and to cause any vault within the city to be cleaned when necessary; and in case of failure or refusal of the owner of any such property to comply with the requirement of any ordinance or resolution of the city council with reference to such matter, after such notice as in such ordinance or resolution may be prescribed, the work necessary may be done by the city at the expense of the owner, and become a charge upon the property, and collected as other city claims against property for work and labor done thereupon are collected.

**Establishing Grade of Streets, etc.—Street Railways.**—(7) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, change, extend, vacate and establish streets, highways and alleys, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to authorize and forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places; but no railway track can be located and laid down until after the injury to property abutting upon the street, alley, or public places upon which the track is proposed to be located and laid down has been ascertained and compensated. Such compensation shall be determined as in other cases where private property is taken for the use of the city. \* \* \*

**Manner and Amount of Levy—Limit of Indebtedness.**—(19) To levy and collect a special tax or taxes, not to exceed in the aggregate in any one year one and a half per centum upon all taxable property in said city; said special taxes to be applied to any purpose authorized by this charter. Every ordinance providing for the levy of a special tax must specify the object for which levied and the estimated amount required to be raised. The indebtedness of the city must never exceed in the aggregate the sum of five thousand dollars, and any debt or liability incurred in excess of said sum of five thousand dollars shall be invalid and void.

**May Adopt Proper Ordinances.**—(20) To enact proper ordinances for the government of the city, and to carry into effect the powers given by this act, \* \* \*

**Incidental Powers.**—(21) To \* \* \* have such other powers and privileges not herein specifically enumerated as are incident to municipal corporations of like character and degree, not inconsistent with the laws of the United States, or of this Territory, and as may be necessary for carrying into effect the provisions of this act, according the true intent and meaning thereof.

#### CHAPTER VII.

**§ 10. Powers of the Council.**—SEC. 30. The city council shall possess all the legislative powers granted by this act, and all other corporate

powers of the city not herein or by some ordinances of the city conferred on some other officer.

§ 11. **Equalization of Taxes.**—SEC. 31. The common council shall have power to equalize taxes upon the assessment roll of the city at any time prior to the day fixed for taxes becoming delinquent: *Provided*, That ten days' notice by publication or written or personal service shall be given to any person whose name it is proposed to add to the list, or to any person whose assessment it is proposed to increase, citing him to come forward and show cause, if any there be, why such action should not be taken by said common council.

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#### CHAPTER IX.

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§ 12. **Duties of Assessor.**—SEC. 52. The assessor must annually make a correct list of all the property subject to taxation by the city of Snohomish with the valuation thereof, and certify and return the same to the clerk.

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§ 13. **Manner of Assessment, etc.**—SEC. 54. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes; but the form of assessment roll, and the rule for ascertaining the ownership of property, and in whose name it may be assessed, may be prescribed by ordinance, and the time of making such assessment, and the return thereof, and of applying to the council for a revision thereof must be prescribed by ordinance.

§ 14. **Duties of Collector.**—SEC. 55. The collector shall collect all delinquent taxes and assessments when required by warrant, \* \* \*

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#### CHAPTER X.

§ 15. **Manner and Amount of Levy.**—SEC. 62. On the receipt by the city clerk of the city assessment, the mayor shall cause the common council to be notified that at their next regular meeting the annual municipal tax will be levied; at such regular meeting, or as soon thereafter as practicable, the council shall, by ordinance, levy a municipal tax for the year, and prescribe the time therein, not less than thirty days nor more than sixty days after said ordinance shall take effect, when municipal, road property and bridge taxes shall be paid, or draw interest thereafter at ten per centum per annum unpaid. At such meeting or as soon thereafter as practicable, said common council shall, by ordinance, prescribe the time when the collector shall demand road poll taxes.

§ 16. **Taxation of Property Omitted, etc.**—SEC. 63. The city assessor, clerk, collector, treasurer and collector of delinquent taxes, are each and all empowered to list and attach a proper valuation to property which may have escaped assessment, or add names of persons liable to poll tax to such road poll list who may have been omitted, noting such addition as a supplementary assessment.

§ 17. **Collection of Road Taxes.**—SEC. 64. The city clerk shall, from the said city assessment, make a road poll tax list containing the names of all persons found within the city liable to pay such road poll tax, and forthwith furnish said list to the collector, and he shall proceed at once to collect said poll tax. The collector must add to said list the names of all persons found within the city liable to pay such road poll tax who shall fail to produce a receipt for the payment of a road poll tax for the current year, and shall demand the amount for each person named upon the list. If the person, on demand, refuses to pay said tax, it shall be lawful to distrain upon his personal property not exempt from execution, and sell the same in the manner provided by law for constable's sales of

property on execution; or it shall be lawful for the collector to give the opportunity to such delinquent to work out said tax and costs by work upon the streets.

§ 18. **Warrant for Such Taxes.**—SEC. 65. The warrant issued by the clerk for the collection of delinquent road poll taxes, shall be deemed an execution against personal property, and shall have the force and effect thereof, against any property not exempt from execution. \* \* \*

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§ 19. **Collection—Notice.**—SEC. 67. On or before the fifteenth day of June, if before that time the city assessment has been filed and the municipal tax levy made by the common council, or if not then, as soon thereafter as practicable, the city clerk shall place in the hands of the treasurer a correct transcript from the city assessment, excluding therefrom the road poll tax column, and the names of such persons as are only liable to road poll tax; which transcript shall be called "city tax transcript," and shall contain the municipal, road property and bridge tax levied within the city limits. The clerk shall annex thereto a warrant directing said treasurer to collect said taxes. Said treasurer shall forthwith give public notice by three weekly insertions in the newspaper doing the city printing, that said tax transcript is in his hands, that the taxes are payable, and the date at which interest accrues if they remain unpaid.

§ 20. **When Taxes Payable.**—SEC. 68. The council must provide by ordinance within what time all municipal taxes, whether general or special, may be paid to the treasurer; and all taxes not paid within such time thereafter draw interest at ten per centum per annum until paid.

§ 21. **Duties of Treasurer.**—SEC. 69. The treasurer, immediately after the 31st day of December of each year, shall return such city transcript to the city clerk, distinguishing thereon the taxes paid and those unpaid. The city shall thereupon issue and annex thereto a warrant directed to the county treasurer or collector of delinquent county and Territorial taxes, authorizing the collection of delinquent taxes upon such roll in the manner provided by law for the collection of delinquent Territorial and county taxes, and thereafter all proceedings for the collection of such delinquent taxes shall be as regulated and prescribed in the laws of the Territory relating to the collection of delinquent taxes.

§ 22. **General Road Laws Shall Govern.**—SEC. 70. All the penalties and forms prescribed by the general road law of the Territory for the collection of road and bridge taxes not herein modified may be resorted to in the collection of said road and bridge taxes within the said city as fully as though the provisions thereof were embodied in any ordinance of said city referring to such taxes.

#### CHAPTER XI.

§ 23. **Method of Appropriation of Private Property.**—SEC. 71. In all cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owner of such property; and where such owners and the city council are unable to agree as to the amount of such compensation, the same shall be determined in the manner provided by the general laws of this Territory, relating to the mode of proceeding to appropriate land by private corporations.

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CHAPTER XVII.—CITY OF SPOKANE FALLS.

No. 7784.—AN ACT TO INCORPORATE THE CITY OF SPOKANE FALLS.<sup>1</sup>

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Spokane Falls shall be bounded as follows, to wit: Commencing at the northwest corner of section 19, township 25 north, range 43 east; thence west 160 rods to quarter post; thence south 160 rods to center of section 25, township 25 north, range 42 east; thence east 480 rods to southeast corner of the north half of section 19, township 25 north, range 43 east; thence east 80 rods; thence north 160 rods; thence east 80 rods to southeast corner of southwest quarter of section 17; thence north to and across Spokane river to a point 200 feet from high water mark on said river; thence meandering said river in a westerly direction 200 feet from high water mark to the west line of section 18; thence south along said line to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Spokane Falls, within the limits above described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the city of Spokane Falls; and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity and in all suits and actions whatsoever, may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold property beyond the limits of the city to be used for burial purposes, also for the establishment of hospitals for the reception of persons affected with contagious diseases, also for workhouses or houses of correction, also for the erection of water works to supply the city with water, and may sell, lease or dispose of the same for the benefit of the city, and they shall have and use a common seal and may alter and amend the same and make a new one at pleasure.

ARTICLE II.

§ 3. **Government.**—SECTION 1. The government of said city shall be vested in a mayor and common council consisting of seven members, who shall be elected by the qualified voters of said city, and shall hold their office until ten days after the next annual election, and until their successors shall be elected and qualified.

§ 4. **Officers.**—SEC. 2. There shall be a city treasurer, city marshal and city clerk to be elected by the city council \* \* \*

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ARTICLE III.

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§ 5. **Assessor—Manner of Making Assessments.**—SEC. 2. The common council shall appoint one of the justices of the peace in said city of Spokane Falls, whose duties shall be as follows: He shall \* \* \* as *ex-officio* assessor, within such time as shall be by ordinance provided, make out and return to the common council a correct list of all the taxable property within the limits of the city, with the valuation thereof, and the name of the person liable to be taxed therefor. The mode of making out such list, ascertaining the value of the property and collecting the taxes shall, as nearly as may be practicable, be the same as that prescribed by

<sup>1</sup> Approved Nov. 29, 1881. (See Eighth Bien. Sess. 1881, p. 148.) In effect from date.

law for assessing and collecting Territorial and county taxes, and he shall, as such assessor, discharge such other duties as may by ordinance be prescribed. He shall, as *ex-officio* clerk, be the custodian of the records and the seal of the city, and shall authenticate its public acts. He shall attend the meetings of the common council, and shall keep a correct journal of the proceedings thereof, and shall generally do and perform such duties as may by ordinance be provided.

§ 6. **Duties of Marshal.**—SEC. 3. The marshal \* \* \* shall collect city taxes. \* \* \*

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#### ARTICLE VI.

§ 7. **Powers of the Council.**—SECTION 1. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or this Territory. (2) To levy and collect tax not exceeding one-half ( $\frac{1}{2}$ ) of one per cent per annum upon all property made taxable by law for county and Territorial purposes: *Provided*, That if any person at any time after the annual assessment shall commence the sale or barter of any wares or merchandise within said city such person shall be assessed and pay a tax on said goods, wares and merchandise for the balance of the year after he shall so commence, proportioned to the amount levied or assessed for city purposes for the year: *And, further provided*, That no tax shall be levied on the value of articles, the growth and produce of the Territory, which are brought into said city and sold. \* \* \* (14) To remove all obstructions from the streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repairing of the same, as well as sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises, to clean and remove obstructions from streets, alleys, cross and sidewalks, adjoining their property or the premises occupied by them, and to levy a discriminating tax on persons and property particularly benefited by the construction or repair of streets, side and crosswalks, sewers, gutters and drains, either with or without a general tax for general benefit of such work. \* \* \* (19) To prescribe the manner of building party walls and fences. \* \* \*

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§ 8. **Ordinances.**—SEC. 5. The style of the city ordinance shall be as follows: "The people of the city of Spokane Falls do ordain as follows." \* \* \*

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### No. 779.—AN ACT ENTITLED "AN ACT TO AMEND AN ACT TO INCORPORATE THE CITY OF SPOKANE, FALLS."<sup>1</sup>

#### ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That an act entitled An act to amend an act to incorporate the city of Spokane Falls be amended to read as follows: Commencing after the words "shall be bounded as follows" in article first, section 1, of an act to incorporate the city of Spokane Falls, approved November 29, 1881,<sup>2</sup> shall read as follows, to wit: Commencing at the northeast corner section eighteen, in township twenty-five north, range forty-three (43) east, running thence west one and one-half miles; thence south two miles; thence east two miles; thence north two miles; thence west one-half mile to the place of beginning. All situated, lying and being in the county of Spokane, Territory of Washington.

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 350.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 778½, § 1, *supra*.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Spokane Falls, within the limits above described, shall be and they are hereby constituted a body politic and corporate in fact and in law by the name and style of the city of Spokane Falls, and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real and personal, and personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure. \* \* \*

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ARTICLE V.

§ 3. **Powers of the Council.**—SECTION 1. The city council shall have power— \* \* \* (3) To levy and collect taxes for general and special purposes on real and personal property. \* \* \* (7) To lay out, to establish, open, alter, widen, extend, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, parks and public grounds, and vacate the same. \* \* \* (52) To regulate partition fences and party walls. \* \* \* (70) To establish and regulate cemeteries within or without the corporation, and acquire lands therefor by purchase or otherwise \* \* \* (79) The city council shall have power, by condemnation or otherwise, to extend any street, alley or highway over or across, or to construct any sewer under or through, any railroad tract, right-of-way or land of any railroad company within the corporate limits.

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ARTICLE VI.

§ 4. **Style of Ordinances.**—SECTION 1. The style of all ordinances shall be "Be it ordained by the city of Spokane Falls."

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ARTICLE VII.

§ 5. **Officers.**—SECTION 1. There shall be elected in the city of Spokane Falls, Washington Territory, the following officers: A mayor, a city council, a city clerk, a city attorney, a city treasurer and a city marshal.

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§ 6. **General Duties of Officers.**—SEC. 9. The duties of all the officers of the city except the mayor and the aldermen shall be prescribed by ordinance, not inconsistent with this act.

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ARTICLE IX.

§ 7. **Assessment, etc., of Taxes.**—SECTION 1. The city council may levy and collect taxes for corporate purposes in the manner following:

§ 8. **Levy.**—SEC. 2. The city council shall, annually, on or before the third day of June in each year, ascertain the total amount of appropriations for all corporate purposes legally made, and to be collected from the tax levy of the fiscal year, and by an ordinance specifying the purposes for which such appropriations are made, and the sum or amount appropriated for each purpose, respectively, levy the amount so ascertained upon all the property subject to taxation within the city as the same is assessed.

§ 9. **Duties of Clerk.**—SEC. 3. A certified copy of such ordinances shall be filed with the proper clerk of the county, whose duty it shall be to ascertain the rate per cent. which, upon the total valuation of all property subject to taxation within the city as the same is assessed, will produce a net amount not less than the amount so directed to be levied, and it shall be the duty of the county clerk to extend such tax in a separate column

upon the book or books of the collector of taxes for the county and Territory within the city.

§ 10. **Manner of Collecting, etc.**—SEC. 4. The taxes so assessed shall be collected and enforced in the same manner and by the same officers as Territory and county taxes, and shall be paid over by the officer collecting the same to the treasurer of the city.

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§ 11. **Taxes Shall be Uniform.**—SEC. 6. All taxes levied or assessed by the city shall be uniform upon all taxable property and persons within the limits of the city.

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§ 12. **Appropriation of Private Property for Water Works—Extra-Territorial Jurisdiction.**—SEC. 9. For the purpose of establishing or supplying water works, said city may go beyond its territorial limits, and may take, hold and acquire property by purchase or otherwise; shall have power to take and condemn all necessary lands or property therefor in the manner provided for the taking or injuring of private property for public use; and the jurisdiction of said city to prevent or punish any pollution or injury to the stream or water course or to such water works, shall extend five miles beyond its corporate limits or so far as such water may extend.

§ 13. **Regulations Concerning Water Works, Taxation, etc.**—SEC. 10. The city council shall have power to make all needful rules and regulations concerning the use of water supplied by the water works of said city and to do all acts and make such rules and regulations for the construction, completion, management or control of the water works, and for the levying and collection of any water taxes, rates or assessments as the said city council may deem necessary and expedient; and such water taxes, rents, rates or assessments may be levied or assessed upon any lot or parcel of ground (having a building or buildings thereon) which shall abut or join any street, avenue or alleys in said city through which the distributing pipes of such water works of said city are or may be laid, which can be conveniently supplied with water from said pipes, whether the water shall be used on such lot or parcel of ground or not; and the same, when so levied or assessed, shall become a continuing lien or charge upon such lot or parcel of ground, building or buildings situated thereon, and such lien or charge may be collected or enforced in such manner as other delinquent taxes are enforced and collected, and the city council may levy a general tax for the construction and maintenance of such water works, and appropriate money therefor, but no such work shall be erected by the city until a majority of the voters of the city general election assent thereto. Said vote shall be upon a separate ballot, and form no part of a ballot for any office or officer or other proposition or appropriation.

#### ARTICLE X.

§ 14. **Special Assessments.**—1. That the city is hereby vested with power to make local improvements by special assessments or by special taxation, or both, of contiguous property, or general taxation, or otherwise, as it shall by ordinance prescribe.

§ 15. **Ordinance for Improvement.**—2. When the city shall by ordinance provide for the making of any local improvement, it shall, by the same ordinance, prescribe whether the same shall be made by special assessment or by special taxation of contiguous property or general taxation, or both.

§ 16. **Appropriation of Private Property.**—3. Should said ordinance provide for improvements which require the taking or damaging of property, the proceeding for making just compensation therefor shall be as follows:

§ 17. **Proceedings in Court: Petition.**—4. Whenever any such ordinance shall be passed by the legislative authority of the city for the making of any improvement mentioned in the first section of this act, or any other improvement that the city is authorized to make, the making of which will require that private property be taken or damaged for public use, the city shall file a petition in some court of record of the county in which the city is situated, in the name of the city, praying that "the just compensation to be made for private property to be taken or damaged, for the improvement or purpose specified in such ordinance, shall be ascertained by a jury."

§ 18. **Form of Petition.**—5. The petition shall contain a copy of the said ordinance, certified by the clerk, under the corporate seal, a reasonably accurate description of the lots, parcels of land and property which will be taken or damaged, and the names of the owners and occupants thereof, so far as known to the board or officer filing the petition, and where any known owners are non-residents of the Territory, stating the fact of the non-residence.

§ 19. **Summons—Publication—Notice.**—6. Upon the filing of the petition aforesaid, a summons, which may be made returnable upon any day in term time, shall be issued and served upon the persons made parties defendant, and in case any of them are unknown, or reside out of this Territory, the clerk of the court, upon an affidavit being filed, showing such fact, shall cause publication to be made in some newspaper printed in the county, containing notice of the pendency of such proceeding, the parties thereto, the title of the court, and the time and place of the return of the summons in the case, and the notice of said proceeding; the publication to be made for four weeks consecutively, at least once in each week, the first of which shall be at least thirty days before the return day of the summons. Notice so given by publication shall be sufficient to authorize the court to hear and determine the suit as though all parties had been sued by their proper names and had been personally served.

§ 20. **Hearing—Jury.**—7. Upon the return of said summons, or as soon thereafter as the business of the court will permit, the said court shall proceed to the hearing of the petition, and shall empanel a jury to ascertain the just compensation to be paid to all of such owners and occupants aforesaid, but if any defendant or party in interest shall demand, or the court shall deem it proper, separate juries may be impaneled as to the compensation of lawyers to be paid to any one or more of the parties defendants or parties in interest.

§ 21. **Jury to Ascertain Compensation—Intervention.**—8. The jury shall also ascertain the just compensation to be paid to any person claiming an interest in any lot, parcel of ground or property which may be taken or damaged by the improvement, whether or not such person's name, or such lot, parcel of ground or other property is mentioned or described in the petition: *Provided*, Such person shall first be admitted as a party defendant to said suit by the court, and shall file a statement of his interest in a description of the lot, parcel of land or other property in respect to which he claims compensation.

§ 22. **Viewing Premises, etc.**—9. The court may, upon the motion of the city or any person claiming any such compensation, direct that said jury (under the charge of an officer of the court) shall view the premises which it is claimed by any party to said proceedings will be taken or damaged by said improvement; and in any case where there is no satisfactory evidence given to the jury as to the ownership of, or as to the extent of the interest of any defendant in the property to be taken or damaged, the jury may return their verdict as to the compensation or damage to be paid for the property or part of property to be taken or damaged, and for the entire interest therein.



§ 23. **Judgment—New Parties.**—10. Upon the return of such verdict, the court shall order the same to be recorded and shall enter such judgment or decree thereon as the nature of the case may require. The court shall continue or adjourn the case from time to time as to all occupants and owners named in the petition, who shall not have been served with process or brought in by publication, and shall order a new summons to issue and new publication be made, and upon such occupants or owners being brought into court, shall impanel a jury to ascertain the compensation so to be paid to the defendant or defendants for private property taken or damaged; and like proceedings shall be had for such purpose as hereinbefore provided for the ascertaining of compensation to other owners.

§ 24. **Powers of Court.**—11. The court shall have power at any time, upon proof that any such owner or owners named in the petition who have not been served with process have ceased to be such owner or owners since the filing of the petition, to impanel a jury and ascertain the just compensation to be made for the property (or the damage thereto) which had been owned by the person or persons so ceasing to own the same; and the court may, upon any finding or findings of any jury or juries, or at any time during the course of such proceedings, enter such order, rule, judgment or decree as the nature of the case may require.

§ 25. **Questions of Ownership Not to Delay Proceedings.**—12. No delay in making an assessment of compensation shall be occasioned by any doubt or contest which may arise as to the ownership of the property, or any part thereof, or as to the interests of the respective owners or claimants, but in such case the court may impanel a jury and ascertain the entire compensation or damage that should be paid for the property, or part of the property, and the entire interests of all parties therein, and may require adverse claimants to interplead, so as to fully determine their rights and interests in the compensation so ascertained, and the court may make such order as may be necessary in regard to the deposit or payment of such compensation.

§ 26. **Persons Under Disability.**—13. When it shall appear from said petition or otherwise, at any time during the proceedings upon such petition, that any infant, or insane or distracted person, is interested in any property that is to be taken or damaged, the court shall appoint a guardian, *ad litem*, for such infant or insane or distracted person, to appear and defend for him, her or them, and the court shall make such order or decree as it shall deem proper to protect and secure the interests of such infant, or insane or distracted person, in such property, or the compensation which shall be awarded therefor.

§ 27. **Effect of Judgment, Appeal, etc.**—14. Any final judgment or judgments, rendered by said court, upon any finding or findings of any jury or juries shall be a lawful and sufficient condemnation of the land or property to be taken upon the payment of the amount of such finding as herein provided. It shall be final and conclusive as to the damages caused by such improvement, unless such judgments shall be appealed from; but no appeal or writ of error upon the same shall delay proceedings under said audience,<sup>a</sup> if the city shall deposit as directed by the court, the amount of the judgment and costs, and shall file a bond in the court in which such judgment was rendered, in a sum to be fixed and with security to be approved by the judge of said court, which shall secure the payment of any future compensation which may at any time be finally awarded to such party so appealing or suing out such writ of error, and his or her costs.

§ 28. **Order for Possession.**—15. The court, upon proof of that said just compensation so found by the jury has been paid to the person en-

<sup>a</sup> Ordinance.

titled thereto, or has been deposited as directed by the court (and bond given in case of any appeal or writ of error), shall enter and order that the city shall have the right at any time thereafter to take possession of or damage the property in respect to which compensation shall have been so paid or deposited as aforesaid.

§ 29. **When Improvement Made by General Tax.**—16. When the ordinance under which said improvement is ordered to be made shall provide that such improvement shall be made by general taxation, the cost of such improvement shall be added to the general appropriation bill of the city, and shall be levied and collected with and as a part of the general taxes of the city.

§ 30. **Special Taxation.**—17. When said ordinances under which said local improvement shall be ordered shall provide that such improvement shall be made by special taxation of contiguous property, the same shall be levied, assessed and collected in the way provided in the sections of this act providing for the mode of making levies, assessing and collecting special assessments.

§ 31. **Special Assessments: How Made.**—18. When the ordinance under which said local improvement is ordered to be made shall provide that such improvement shall be wholly or in part made by special assessment, the proceeding for the making such special assessment shall be in accordance with the sections of this act.

§ 32. **Ordinance for Sidewalks—Owners' Rights.**—19. Whenever such local improvements are to be made wholly or in part by special assessment, the said council shall pass an ordinance to that effect, specifying therein the nature, character, locality and description of such improvement: *Provided*, That whenever any such ordinance shall provide for the building or renewing of any sidewalk, the owner of any lot or piece of land fronting on such sidewalk shall be allowed fifteen days after the time at which such ordinance shall take effect in which to build or renew such sidewalk opposite his land, and thereby relieve the same from assessment: *Provided*, That the work so to be done shall in all respects conform to the requirements of such ordinance.

§ 33. **Estimate of Cost.**—20. The city council shall appoint three of its members, or any other three competent persons, who shall make an estimate of the cost of the improvement contemplated by such ordinance, including labor, materials, and all other expenses attending the same, and the cost of making and levying the assessment, and shall report the same in writing to said council.

§ 34. **Order for Proceedings in Court.**—21. On such report being made and approved by the council, it may order a petition to be filed by such officer as it shall direct in the county court of its county for proceedings to assess the cost of such improvement in the manner provided in this act.

§ 35. **Petition to Court.**—22. The petition shall be in the name of the corporation, and shall recite the ordinance for the proposed improvement and the report of such commission, and shall pray that the cost of such improvement may be assessed in the manner prescribed by laws.

§ 36. **Appointment of Commissioners.**—23. Upon the filing of such petition the court shall appoint three competent persons as commissioners, who shall take and subscribe an oath.

§ 37. **Duty of Commissioners.**—24. It shall be the duty of such commissioners to examine the locality where the improvement is to be made, and the lots, blocks, tracts and parcels of land that will be specially benefited thereby, and to estimate what proportion of the total cost of such improvement will be of benefit to the public; and what proportion thereof will be of benefit to the property to be benefited, and apportion the same between the city and such property, so that each shall bear its relative equitable proportion; and having found said amounts, to apportion and

assess the amount so found to be of benefit to the property upon the several lots, blocks, tracts and parcels of land in the proportion in which they will severally be benefited by such improvement: *Provided*, That no lot, block, tract or parcel of land shall be assessed a greater amount than it will be actually benefited: *And provided further*, That it shall not be necessary for said commissioners to examine the locality, except where the ordinance provides for the opening, widening or improvement of streets and alleys.

§ 38. **Return of Roll.**—25. They shall also make or cause to be made an assessment roll, in which shall appear the names of the owners so far as known, a description of each lot, block, tract or parcel of land, and the amount assessed as special benefits thereto, and in which they shall set down, as against the city, the amount they shall have found as public benefit, and certify such assessment roll to the court by which they were appointed, at least ten days before the first day of the term at which a final hearing thereon shall be had.

§ 39. **Notice: Manner and Substance.**—26. It shall also be the duty of such commissioners to give notice of such assessment, and of the term of court at which a final hearing thereon shall be had, in the following manner:

*First:* They shall send by mail to each owner of premises assessed, whose name and place of residence is known to them, a notice substantially in the following form:

Mr. (——): Your (here give a short description of the premises) is assessed \$—— for public improvement. The assessment roll will be returned to the —— term of the county court of —— county.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Commissioners.

(Here give date.)

*Second:* They shall cause at least ten days' notice to be given by posting notices in at least four public places in the city, two of which shall be in the neighborhood of such proposed improvement; and when a daily newspaper is published in the city by publishing the same at least five successive days in such daily newspaper, or if no daily newspaper is published in the city, and a weekly newspaper is published therein, then at least once in each week, for two consecutive weeks, in such weekly newspaper, or if no daily or weekly newspaper is published in the city, then in a newspaper published in the county in which the city is situated. The notice may be substantially as follows:

SPECIAL ASSESSMENT NOTICE.

Notice is hereby given to all persons interested, that the city council of ——, having ordered that —— (here insert the description and nature of improvements substantially as in ordinance), having applied to the county court of —— county for an assessment of the costs of said improvements, according to benefits; and an assessment thereof having been made and returned to said court, the final hearing thereon will be had at the —— term of said court, commencing on the —— day of ——, A. D. 18—. All persons desiring may then and there appear and make their defense.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Commissioners.

(Here give date)

§ 40. **Proof of Notice.**—27. On or before the final hearing, the affidavit of one or more of the commissioners shall be filed in said court, stating that they have sent or caused to be sent by mail, to the owners whose premises have been assessed, and whose name and place of business are known to them, the notice hereinbefore required to be sent by mail to owners of premises assessed. They shall also cause to be filed the affidavit of the person who shall have posted the notices, required by this act to be posted, setting forth when and in what manner the same were posted. Such affidavits shall be received as *prima facie* evidence of a compliance with this act in regard to giving such notices. They shall also file a certificate of publication of said notice in like manner as is required in other cases of publication of notices.

§ 41. **Continuance.**—28. If ten days shall not have elapsed between the first publication, or the putting up of such notices and the first day of the next term of such court, the hearing shall be continued until the next term of court.

§ 42. **Objections—Judgment by Default.**—29. Any person interested in any real estate to be affected by such assessment, may appear and file objections to such report and the court may make such order, in regard to the time of filing such objections, as may be made in cases of law in regard to the time of filing pleas. As to all lots, blocks, tracts and parcels of land, to the assessment of which objections are not filed within the time ordered by the court, default may be entered, and the assessment confirmed by the court.

§ 43. **Hearing—Jury.**—30. On the hearing, the report of the commissioners shall be competent evidence, and either party may introduce such other evidence as may tend to establish the right of the matter. The hearing shall be conducted as in other cases at law, and if it shall appear that the premises of the objector are assessed more or less than they will be benefited, or more or less than their proportionate share of the cost of the improvement, the jury shall so find, and also find the amount for which such premises ought to be assessed, and judgment shall be rendered accordingly. \* \* \*

§ 44. **Court May Modify, etc., the Assessment.**—31. The court, before which any such proceeding may be pending, shall have authority at any time before final adjournment [judgment] to modify, alter, change, annul or confirm any assessment returned as aforesaid, or cause any such assessment to be recast by the same commissioners whenever it shall be necessary for the attainment of justice, or may appoint other commissioners in the place of all or any of the commissioners first appointed, for the purpose of making such assessment, or modifying altering, changing or recasting the same, and may take such proceedings and make all such orders as may be necessary to make a true and just assessment of the cost of such improvement according to the principles of this act, and may from time to time, as may be necessary, continue the application for that purpose as to the whole or any part of the premises:

§ 45. **Effect of Judgment—Appeal, etc.—Lien.**—32. The judgment of the court shall have the effect of a several judgment as to each tract or parcel of land assessed, and any appeal from such judgment or writ of error shall not invalidate or delay the judgment, except as to property concerning which the appeal or writ of error is taken. Such judgment shall be a lien upon the property assessed from the date thereof until payment shall be made.

§ 46. **Judgment Certified to Clerk—Warrant.**—34. The clerk of the court in which such judgment is rendered shall certify the assessment roll and judgment to the clerk of the city, or if there be no appeal or writ of error taken on any part of such judgment, then he shall certify such part of the judgment as is not included in such appeal or writ of error. The clerk of the city shall file such certificate in his office, and issue a warrant for the collection of such assessments.

§ 47. **Form of Warrant.**—34. The warrant, in all cases of assessment under this act, shall contain a copy of such certificate of the judgment, describing the lots, blocks, tracts or parcels of land assessed, and the respective amounts assessed on each lot, block, tract or parcel of land, and shall be delivered to the officer authorized to collect such special assessments; such warrant shall give sufficient authority to collect the assessments therein specified.

§ 48. **Collector's Notice: Form of.**—35. The collector receiving such warrant shall immediately give notice thereof by publishing such notice in one or more newspapers in the city, if such newspaper is there; and if

there is no such newspaper, then by posting four copies thereof in public places along the line of the proposed improvements. Such notice may be substantially in the following form:

**SPECIAL ASSESSMENT NOTICE.—SPECIAL WARRANT NO. —.—36.** Public notice is hereby given that the (here insert title of court) has rendered judgment for a special assessment upon property benefited by the following improvements (here insert the character and location of the improvements in general terms) as will more fully appear from the certified copy of the judgment on file in the office of the clerk of the city of ———, that a warrant for the collection of such assessments is in the hands of the undersigned. All persons interested are hereby notified to call and pay the amounts assessed, at the collector's office (here insert location of office) within thirty days from the date hereof. Dated this — day of ——— A. D., 18—. ———, Collector.

**§ 49. Manner of Collecting—Entry of Payment.—37.** It shall be the duty of the collector, into whose hands the warrants shall so come, as far as practicable, to call upon all persons residents within the corporation, whose names appear on the assessment roll, or the occupants of the property assessed, and personally, or by written or by printed notice left at his or her usual place of abode, inform them of such assessments, and request the payment of the same. Any such collector omitting so to do shall be liable to a penalty of ten dollars for every such omission, but the validity of the special assessment, or the right to apply for and obtain judgment for any such special assessments, shall not be affected by such omission. It shall be the duty of such collector to write the word "paid" opposite each tract or lot on which the assessment is paid, together with the name and postoffice address of the person making the payment, and date of payment.

**§ 50. Application for Judgment.—38.** It shall be the duty of the collector of special assessments, within such time as the city council may by ordinance provide, to make a report in writing to the general officer of the county authorized or to be designated by the general revenue law of this Territory, to apply for judgment and sell land for taxes due the county and Territory of all the lands, town lots and real property on which he shall have been unable to collect special assessments, with the amount of special assessments due and unpaid thereon, together with his warrants, with a brief description of the nature of the warrant or warrants received by him authorizing the collection thereof; which report shall be accompanied with the oath of the collector that the list is a correct return and report of the land, city lots and real property on which the special assessments levied by authority of the city of Spokane remain due and unpaid; that he is unable to collect the same or any part thereof, and that he has given the notice required by law that said warrants had been received by him for collection. Said report, when so made, shall be *prima facie* evidence that all the forms and requirements of law in relation to making said return have been complied with, and that the special assessments mentioned in said report are due and unpaid. And upon the application for judgment upon such assessment, no defense or objection shall be made or heard which might have been interposed in the proceeding for the making of such assessment, or the application for the confirmation thereof.

**§ 51. What Laws Govern Application.—38.** When said general officer shall receive the report provided for in the preceding section, he shall at once proceed to obtain judgment against said lots, parcels of land and property for said special assessments remaining due and unpaid, in the same manner as is or may be by law provided for obtaining judgment against lands for taxes due and unpaid the county and Territory, and shall in the same manner proceed to sell the same for the said special assessments remaining due and unpaid. In obtaining said judgment and making said sale, the said officer shall be governed by the general revenue laws of this Territory, except when otherwise provided herein.

**§ 52. Return of Sales—Redemption.—39.** After making said sales the list of lots, parcels of lands and property sold thereat shall be returned



to the office of the county clerk, and redemption may be made as provided for by the general revenue law of this Territory.

**§ 53. Penalties When Lands Are Sold for Tax, Etc.—40.** If the collector shall receive any moneys for taxes or assessments, giving a receipt therefor, for any land or parcel of land, and afterwards return the same as unpaid to the officers authorized to sell lands for taxes, or shall receive the same after making such return, and the same be sold for tax or assessment, which has been so paid and receipted for by himself or his clerks, he and his bond shall be liable to the holder of the certificate given to the purchasers at the sale for double the amount of the face of the certificate, to be demanded in two years from the date of the sale, and recovered in any court having jurisdiction of the amount; and the city shall in no case be liable to the holder of such certificate.

\* \* \* \* \*

**§ 54. General Revenue Laws Apply.—42.** The general revenue laws of this Territory in reference to proceedings to recover judgments for delinquent taxes, the sale of property thereon, the execution of certificates of sale and deeds thereon, the force and effect of such sales and deeds, and all other laws in relation to enforcement and collection of taxes and redemption from tax sales, except as herein otherwise provided, shall be applicable to proceedings to collect such special assessment.

**§ 55. In What Case City May Purchase.—43.** The city interested in the collection of any tax or special assessment may become a purchaser at any sale of real or personal property to enforce the collection of the same, and may, by ordinance, authorize and make it the duty of one or more city officers to attend such sales and bid thereat in behalf of the corporation.

**§ 56. If First Insufficient, New Assessment Shall be Made.—44.** If in any case the first assessment prove insufficient, a second may be made in the same manner, as nearly as may be, and so on until sufficient moneys shall have been realized to pay for such public improvement. If too large a sum shall at any time be raised, the excess shall be refunded ratably to those by whom it was paid.

**§ 57. New Assessments Against Delinquents—Lien—Limitations.** 45. If from any cause the city shall fail to collect the whole of any special assessment which may be levied, which shall not be cancelled and set aside by the order of any court, for any public improvements authorized to be made and paid for by any special assessment, the city council may, at any time within five years after the confirmation of the original assessment, direct a new assessment to be made upon the delinquent property for the amount of such deficiency, and interest thereon from the date of such original assessment, which assessment shall be made, as near as may be, in the same manner as herein prescribed for the first assessment. In all cases where partial payments shall have been made on such former assessment they shall be credited or allowed on the new assessment to the property for which they were made so that the assessment shall be equal and impartial in its results; if such new assessment prove ineffectual, either in whole or in part, the city council may, at any time within said period of five years, order a third, and so on, to be levied in the same manner and for the same purpose; and it shall constitute no legal objection to such assessment that the property may have changed hands or been encumbered subsequent to the date of the original assessment, it being the true intent and meaning of this section to make the cost and expense of all public improvements to be paid for by a special assessment, a charge upon the property assessed therefor, for the full period of five years from the confirmation of the original assessment and for such longer period as may be required to collect in due course of law any new assessment ordered within that period.

§ 58. **Contracts Payable Only From Assessments.**—46. All persons taking any contracts with the city and who agree to be paid from special assessments, shall have no claim or lien upon the city in any event, except from the collections of the special assessment made for the work contracted for.

§ 59. **How Contracts Let.**—47. All contracts for the making of any public improvements to be paid for in whole or in part by a special assessment, and any work or other public improvement, when the expense thereof shall exceed \$500, shall be let to the lowest responsible bidder, in the manner to be prescribed by ordinance, such contracts to be approved by the mayor: *Provided, however,* Any such contract may be entered into by the proper officer without such approval by a vote of two-thirds of all the aldermen elected.

§ 60. **Lien.**—48. All special assessments levied by the city under this act shall, from the date of assessment, be a lien upon the real estate upon which the same may be imposed, and such lien shall continue until such special assessments are paid. And the same proceedings may be resorted to by the collector, upon any warrant or order issued or made for the collection of special assessments as in the case of the collection of Territorial and county taxes under the general laws of the Territory.

§ 61. **Collection by Suit.**—49. At any time after the same becomes due, it shall and may be lawful for any collector thereof to commence suit in any court of record, in the corporate name of the city, against any person or persons, for the total amount of special assessments which such person or persons are liable for the payment of; such suit shall be commenced by petition, and shall state the several amounts of the special assessments sought to be recovered, and give a general description of the warrants issued for the collection thereof. Upon the filing of the petition a summons shall be issued, served and returned as in other suits in such court; upon the return of such summons, duly served, the court shall forthwith proceed to the hearing of said petition without formal pleadings, and may render judgment for all or any part of the special assessments, as the right and justice of the case may require. The original or a certified copy (by the clerk, under the corporate seal), of such warrant or warrants, and list or lists or so much thereof as refers to the special assessments sought to be recovered, shall be *prima facie* evidence of the right of said collector to a judgment in favor of such corporation. Execution shall issue on such judgment as in other cases, but such execution may be first levied upon and collected from any personal property of the defendant; or the court, in which such proceedings were had, may, upon complaint of the city, issue a *scire facias* against the person or persons liable for such payments to show cause why execution should not issue against him or them for the amount of such assessment; and if, upon the return of such *scire facias*, good cause is not shown why execution should not issue, the court may award execution against such person or persons in the usual form of execution upon judgment at law.

#### ARTICLE XI.

§ 62. **Equalization of Taxes, etc.**—SECTION 1. The city council shall have the power to equalize taxes upon the assessment roll of the city at any time prior to the day fixed for taxes becoming delinquent: *Provided,* That ten days' notice by publication or written personal service shall be given to any person whose name it is proposed to add to the list or to any person it is proposed to increase, citing him to come forward and show cause, if any there be, why such action should not be taken by the city council.

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§ 63. **Road Districts, etc.**—SEC. 8. The corporate limits of the city of Spokane Falls shall not be included within any road district, nor shall the

county commissioners of Spokane county have any jurisdiction over the expenditure of road tax collected within the limits of said city. Said city shall be a separate and independent road district under the exclusive control of the city council. All road taxes, whether road poll or road property tax, levied, assessed or collected by virtue of the general road and revenue laws of the Territory of Washington, within the corporate limits of the city, shall belong to the city of Spokane Falls, and the road poll tax and the city poll tax may be levied and collected at such time as may be fixed by ordinance. Any person refusing or neglecting to pay his road or city poll tax after demand is made by the proper officer for such payment, shall be deemed guilty of a misdemeanor, and shall be punished as other offenders who are guilty of violating the city ordinances are punished, as the city council by ordinance may provide.

\* \* \* \* \*

**No. 780.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT TO INCORPORATE THE CITY OF SPOKANE FALLS, APPROVED NOVEMBER 28, 1883."<sup>1</sup>

§ 1. **Act of 1883 Repealed.**—*Be it enacted, etc.,* That the act of the legislative assembly of the Territory of Washington, approved November 28, 1883, entitled "An act to amend an act to incorporate the city of Spokane Falls,"<sup>2</sup> be and the same is amended to read as follows, to wit:

#### CHAPTER I.

§ 2. **Boundaries.**—SECTION 1. The city of Spokane Falls shall include within its limits the following lands, premises and territory, to wit: Commencing at the northeast corner of section eighteen, in township twenty-five north, range forty-three east, running thence west one and a half miles; thence south two miles; thence east two miles; thence north two miles; thence west one-half mile to place of beginning; all situated, lying and being in the county of Spokane, Territory of Washington.

§ 3. **General Powers.**—SEC. 2. The inhabitants of the city of Spokane Falls within the limits above described, shall be and they are hereby constituted a body politic and corporate in fact and in law, by the name and style of the "City of Spokane Falls," and by that name shall have perpetual succession and may sue and be sued, plead and be impleaded, defend and be defended in all courts of justice; contract and be contracted with, acquire, hold and sell and convey property real, personal and mixed, and have and use a common seal, and amend and alter the same at pleasure. \* \* \*

#### CHAPTER II. \*

§ 4. **General Powers of Taxation.**—SEC. 3. The city of Spokane Falls has power to assess, levy and collect taxes for general municipal purposes, not to exceed one-half of one per centum per annum upon all property, both real and personal within the city which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided. But all taxes for general and special municipal purposes, exclusive of assessments for improvements as hereinafter provided in section seven, shall not in any one year exceed one and one-half per centum on the property assessed.

§ 5. **Protection from Fire: Taxation for.**—SEC. 4. The city of Spokane Falls has power to make regulations for the prevention of accidents by fire, to organize and establish a fire department; ordain rules for the government of the same; to provide fire engines and other apparatus and

<sup>1</sup> Approved Jan. 29, 1886. (See Tenth Blen. Sess. 1885-86, p. 300.)

<sup>2</sup> See No. 779, *supra*.

a sufficient supply of water, and to levy and collect special taxes for these purposes not to exceed in any one year one-fifth of one per centum upon the property assessed within said city; \* \* \*

**§ 6. Appropriation of Private Property for Streets, etc.—Taxation for—Conveyances.—SEC. 5.** The city of Spokane Falls has power to purchase or condemn and enter upon and take any lands within its territorial limits, and has power to purchase and enter upon and take any land without its territorial limits for public squares, streets, parks, commons, houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes not exceeding one-fifth of one per centum in any one year on the property assessed in said city. The city shall have entire control of such buildings, and all lands purchased or condemned under the provisions of this act, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power in case such lands are deemed by it unsuitable or insufficient for the purpose intended, to dispose of and convey the same, and conveyance of such property executed in the manner prescribed by ordinance, shall be held to extinguish all rights and claims of said city, and of the public existing prior to such conveyance; but when such lands are so disposed and conveyed, enough thereof shall be reserved for streets to accommodate adjoining land owners.

**§ 7. Lighting Streets, etc.: Taxation For.—SEC. 6.** The city of Spokane Falls has power to provide for the lighting of the streets and furnishing the city with gas or other lights, and for the erection or construction of such works as may be necessary or convenient therefor, and has power to levy and collect for such purpose a special tax not exceeding one-fifth of one per centum in any one year upon the taxable property of said city.

**§ 8. Constructing Sidewalks and Paving, etc., Streets, etc.—Taxation For.—SEC. 7.** The city of Spokane Falls shall have power to construct and repair sidewalks and to curb, pave, grade, plank, macadamize and gutter any street or streets, highway or highways, alley or alleys therein or any part thereof, and to levy and collect a special tax or assessment on all lots and parcels of land fronting on such street or streets, highway or highways or any part thereof sufficient to pay the expenses of such improvement, and for such purpose may establish assessment districts consisting of all lots and parcels of land fronting on a portion or the whole of any such street or streets, alley or alleys, highway or highways as may be deemed advisable: *Provided however*, That all such assessment districts shall in all cases extend back to the middle of the block fronting on such improvement: *Provided further*, That in all assessments and levies to pay the expenses of such improvements the real estate only shall be assessed, excluding from such assessment all improvements thereon whether the same are fixed to the land or not, and the improvements on such lands shall not be taken or assessed as any part of the land or at all: *And provided further*, That unless the owners of more than one-half of the land subject to assessment for such improvement petition the council to make such improvements, the same shall not be made unless six members of the council are present and vote in favor of making the same.

**§ 9. Opening, Improving Streets, etc.: Taxation for.—SEC. 8.** The city of Spokane Falls has power to provide for clearing, opening, graveling, improving, repairing and clearing streets, alleys and highways, and for the prevention and removal of all obstructions therefrom, or from any crosswalk or sidewalk, and to regulate cellar ways and cellar lights

on sidewalks, and to construct sewers and clean and repair the same, and has power to assess and levy and collect each year a road poll tax of not more than four dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except persons who are a public charge, idiotic and insane persons, and active firemen who have been members of a fire company for one year, and a special tax on property of not more than three mills on every dollar of property within the city, which shall be expended for the purposes specified in this section, and the officers of the county shall not levy any road or road poll tax upon the property or inhabitants of the city.

**§ 10. Removal of Certain Nuisances: Collection of Expense.—**SEC. 9. The city of Spokane Falls has power to cause any lot of land within its limits, on which water at any time becomes stagnant or impure, to be drained or filled up, and to cause any vault within the city to be cleaned when necessary, and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council with reference to such matters, after such notice as in such ordinance or resolution is prescribed, the work necessary may be done at the expense of the city, and the amount so expended shall be assessed as a tax upon such property, and collected as other assessments.

**§ 11. Lien and Collection of Assessment.—**SEC. 10. The city of Spokane Falls has power by general ordinance to prescribe the mode in which the charge on respective owners of lots or land and on lots or lands shall be assessed and determined for the purposes authorized by this act; such charge, when assessed, shall be a lien upon the respective lots or parcels of land from the time of the assessments; such charge may be collected and such lien may be enforced by a proceeding in law or in equity, in the name of the city of Spokane Falls. In any such proceedings, when pleadings are required, it shall be sufficient to declare generally for work and labor done and materials furnished on the particular lot or parcel of land, or street, highway or alley. In such proceedings, where the court trying the same shall be satisfied that the work has been done or materials furnished which, according to the true intent and meaning of this act, would be chargeable upon the lot or land through or by which the street, highway or alley improved or repaired may pass, a recovery shall be permitted or a charge enforced to the extent of a proper proportion of the value of the work or materials which should be chargeable on such lot or land, notwithstanding any informality, irregularity or defect in the proceedings of the officers of the city; but in such case the court may adjudge as to costs as may be deemed proper, and in cases where an assessment shall have been regularly made and payment shall have been neglected or refused at the time when the same was required, the city shall be entitled to demand and recover, in addition to the amount assessed, interest thereon at the rate of ten per cent. per annum from the time of the assessment, and five per cent. to defray the expenses of collection, which shall be included in the judgment or decree which may be rendered.

**§ 12. Establishing Grades of Streets, etc.: Appropriation of Private Property for.—**The city of Spokane Falls has power to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, narrow, change, extend, vacate and establish streets, highways, alleys, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvement authorized by this section, sufficient to make compensation for all property condemned or damaged, and to authorize or forbid the location and laying down of tracks for railways or street railways on any and all



streets and alleys and public places within said city: *Provided*, That no street or alley shall be vacated or extended except five members of the city council vote in favor thereof: *And provided further*, That any person or corporation laying down such railway shall be liable to the owners of the property abutting on such streets or alleys for all damages and injury caused thereby, to be ascertained on the petition of the property owner or owners in the manner provided by chapter 188, sections 2473 to 2476, inclusive, of the Code of Washington of 1881,\* and the judgment and decree thereon shall be that the company or person shall pay such damages, and on such payment shall be entitled to such right-of-way; and if no petition for such compensation shall be filed within two years after the track is laid, such claims shall be barred.

**§ 13. Erection, etc., Water Works.**—SEC. 12. The city of Spokane Falls has power to own, erect, construct, maintain and operate water works within or without the city limits, for the purpose of furnishing said city and the inhabitants thereof with a sufficient supply of water, and for the purpose of protecting the same from injury and the water from pollution. Said city shall have power to regulate and sell the water from such water works, and the moneys arising therefrom shall constitute a fund to be used only to defray the expenses of operating, extending and enlarging the same, and to discharge the indebtedness of said city created in the purchase and construction of such water works; and said city also has power to authorize the construction, maintenance and operating of such water works by any person, persons or private corporation for any length of time not exceeding twenty years, and may authorize such persons or corporations so authorized by it to charge and collect from each person supplied by them with water such water rent as may be provided by ordinance conferring the franchise. Said city has power to enact all such ordinances and regulations as shall be necessary to carry into effect the powers conferred by this section.

**§ 14. Appropriation of Land for Water Works.**—SEC. 13. The city of Spokane Falls is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works.

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**§ 15. Limitation of Indebtedness.**—SEC. 19. The city of Spokane Falls has power to borrow money on the credit of the city for any purpose within the authority of the corporation, including the payment of any existing debt, and for such purpose may issue its warrants on the city treasurer, payable at a specified time, with a rate of interest therein named, not exceeding the rate of 8 per cent. per annum; and has further power to levy and collect a tax sufficient to pay the principal and interest on such sum borrowed, and for the existing indebtedness and interest thereon: *Provided*, The entire indebtedness of said city must not at any one time exceed the sum of twenty-five thousand dollars, excluding its indebtedness for water-works and assessments for improving streets under the provisions of section seven of this chapter: *Provided further*, That all indebtedness heretofore contracted by the city shall be and are hereby declared to be valid.

**§ 16. May Adopt Proper Ordinances.**—SEC. 20. The city of Spokane Falls has power to adopt proper ordinances for the government of the city and to carry into effect the powers given by this act, \* \* \*

**§ 17. Incidental Powers.**—SEC. 21. The city of Spokane Falls has \* \* \* such other powers and privileges not herein specifically enumerated, as are incident to municipal corporations of like character and degree, not inconsistent with the laws of the United States or of the Territory, and as may be necessary for carrying into effect the provisions of this act according to the true intent and meaning thereof.

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\* See No. 460, *supra*.

CHAPTER III.

§ 18. **Government.**—SEC. 22. The power and authority of the municipal corporation, conferred by this act, shall be vested in a mayor and city council, together with such other officers as are in this act mentioned, or may be created under its authority.

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§ 19. **Officers.**—SEC. 25. There shall be elected and appointed, as hereinafter provided, a city attorney, chief of police, treasurer, clerk, assessor, surveyor, and such other subordinate officers as the council may provide.

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CHAPTER VI.

§ 20. **Powers of the Council.**—SEC. 41. The city council shall possess all the legislative powers granted by this act, and all the corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

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CHAPTER VIII.

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§ 21. **Duties of Assessor.**—SEC. 62. The assessor must annually make a correct list of all the property subject to taxation in the city of Spokane Falls, with the valuation thereof, and certify and return the same to the clerk.

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§ 22. **Manner of Assessment.**—SEC. 64. The assessment of property must be made in the manner prescribed by law for assessing property for territorial and county taxes, but the form of assessment roll, and the rule for ascertaining the ownership of property, and in whose name it may be assessed, may be prescribed by ordinance, and the time of making such assessment and the return thereof, and of applying to the council for a revision thereof, must be prescribed by ordinance.

§ 23. **Duties of Treasurer.**—SEC. 65. The city treasurer shall collect all delinquent taxes and assessments when required by warrant or law, and keep and pay out the same upon the order of the city council.

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CHAPTER IX.

§ 24. **Ordinances.**—SEC. 72. The style of every ordinance shall be: "The City of Spokane Falls does ordain as follows." All ordinances and resolutions or orders for the appropriations or payment of money shall require for their passage or adoption the concurrence of a majority of all the members of the council. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no ordinance or section thereof shall be revised or amended unless the new ordinance contain the entire ordinance or section reviewed; and the ordinance or section so amended shall be repealed.

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CHAPTER X.

§ 25. **Collection of Road Taxes.**—SEC. 74. The assessor shall annually make out a list of the names of all persons within the city who are liable to pay a road poll tax as provided in section 8 of this act, and return the same to the council with his assessment of property. Said list shall be delivered to the treasurer with the tax list for collection and he shall proceed to collect the same at the same time and manner that the road property tax is collected: *Provided*, That any person may pay said road poll tax in work on the streets of the city, \* \* \*

§ 26. **Rate of Interest on Taxes.**—SEC. 75. Whenever any general or special tax has been levied, as provided and authorized in chapter two of this act, every part thereof shall bear interest at the legal rate from the time it is due and payable until paid or collected.

§ 27. **When Taxes Become Delinquent.**—SEC. 76. The council must provide by ordinance within what time all taxes levied as provided and authorized in chapter two, may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes and must be collected as such. Within five days from the expiration of the time limited for paying taxes to the treasurer, the treasurer must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

§ 28. **Warrant for Collection.**—SEC. 77. The council must, within twenty days after the receipt of such tax roll, order and direct the city clerk to annex to such tax roll a warrant under the seal of the city, directed to and commanding the city treasurer to proceed forthwith to collect the delinquent taxes upon such roll, in accordance with law, and deliver the same to the city treasurer. Such warrants may be in the following form:

TERRITORY OF WASHINGTON, CITY OF SPOKANE FALLS, SS.

To ———, *treasurer of said city*: Each and all of the taxes on the above tax roll for the year A. D. 18—, not marked therein as paid are delinquent. By order of the council of said city, you are authorized and commanded to proceed forthwith to collect the same. Witness my hand with the seal of the city this ——— day of ——— 18—. ———, *City Clerk*.

§ 29. **Force and Effect of Warrant.**—SEC. 78. Such warrant, for the purpose of collecting such taxes, shall be deemed and taken as an execution against the personal property of the persons in said tax roll named, and for the amount of tax therein charged against each, and the treasurer must at once proceed to collect the same by levy and sale of sufficient of the personal property of the several persons against whom the tax is charged. \* \* \*

§ 30. **Return of Roll.**—SEC. 79. On the first Monday of March, each year, the treasurer shall make return of said delinquent tax roll to the city council, and must make and subscribe therein before the city clerk an affidavit in substance as follows:

TERRITORY OF WASHINGTON, CITY OF SPOKANE FALLS, SS.

I, ———, *treasurer of the city of Spokane Falls*, do solemnly swear that I have made due diligence and search to find sufficient personal property subject to levy belonging to each person whose tax is now delinquent and unpaid on this tax roll, and that I have been unable to find any such property from which to make such tax. So help me God. ———, *Treasurer*.

Subscribed and sworn to before me this ——— day of ———, 18—. ———, *City Clerk*.

[SEAL.]

§ 31. **Order for Sale of Real Estate.**—SEC. 80. The city clerk shall, within ten days from the first Monday in March, enter in such tax roll an order, under the seal of the city, in substance as follows:

TERRITORY OF WASHINGTON, CITY OF SPOKANE FALLS, SS.

To ———, *treasurer of said city*: You are commanded to proceed to sue for the payment of the delinquent and unpaid taxes on the within tax roll for the year 18—, with interest and cost, all the real estate mentioned and described therein, upon which taxes are levied, whether in the name of a designated owner or in the name of an unknown owner. Witness my hand with the seal of the city this ——— day of ———, 18—. ———, *City Clerk*.

[SEAL.]

§ 32. **Manner of Such Sale.**—SEC. 81. On the fourth Monday of April, each year, at 10 o'clock A. M., at the front door of the building in which the city council holds its sessions, the city treasurer or his deputy must commence the sale of real estate named in said tax roll for the preceding year upon which the taxes have not been paid. The treasurer shall give the same notice and proceed in the same manner to make such sales that the sheriff is required to give and do by the provisions of sections

2917, 2918, 2919, 2920 of the Code of Washington of 1881,<sup>4</sup> and shall execute to the purchaser a certificate of purchase for the lands and lots sold to him, stating the amount paid therefor, and any number of lots and parcels of lands sold to one person may be included in one certificate, but the amount paid for each lot or parcel shall be separately stated. Such receipt shall be signed by the treasurer in his official capacity; such certificate shall be *prima facie* evidence of the regularity of all prior proceedings.

§ 33. **Return of Roll.**—SEC. 82. On or before the third Monday of May each year, the treasurer must make return to the city clerk of said tax roll, with a statement of his doings thereon, showing all lands and lots sold by him, to whom sold and the sum paid therefor, which tax roll shall remain on file in the office of the clerk, and any and all delinquent and unpaid taxes therein charged shall be carried forward and charged to the person and the lands on the tax roll for the year following that for which such taxes were levied.

§ 34. **Purchaser's Lien for Taxes and Interest.**—SEC. 83. The purchaser at tax sales acquires a lien on the lots and lands sold for the taxes, interest and costs paid by him at such sale, being for the whole amount bid and paid by him as well as for all taxes subsequently paid by him on the lands and lots, and shall be entitled to interest thereon at the rate of twenty per cent. per annum from the date of such payment.

§ 35. **Redemption: Manner and Limitation of.**—SEC. 84. All lots and parcels of land sold for taxes shall be subject to redemption by the former owner or his grantee or heir within three years from the date of the certificate of purchase, on payment to the city treasurer, for the purchaser, of the amount the same was sold for, with twenty per cent. interest per annum, together with the costs and charges and taxes since such sale paid thereon by the purchaser, with like interest thereon; and on such redemption being made the treasurer shall give to the person redeeming the same a certificate of redemption therefor, and pay over the amount received for such redemption to the purchaser or his assigns. Should no redemption be made within the period of three years the treasurer shall, on demand by the purchaser or his assigns, and the surrender of the certificate, execute to him a deed for such lands and lots therein described. Such deed shall be executed only for the lands and lots named in the certificate, and after payment of all subsequent taxes thereon. The deed shall be executed in the name of the city of Spokane Falls, and shall recite in substance the matters contained in the certificate, and that no redemption has been made of the property within the time allowed by law. Such deed shall be signed and acknowledged by the city treasurer, as such, and shall be recorded within six months from its date. The deed shall be *prima facie* evidence that the property was assessed as required by law; that it was equalized as required by law; that the taxes were not paid; that the property was sold as required by law; that it was not redeemed, and that the person executing the deed was the proper officer; and the deed shall be conclusive evidence of the regularity of all other proceedings from the assessment by the assessor, inclusive, up to the execution of the deed.

\* \* \* \* \*

§ 36. **Actions Concerning Assessments—Discretion of Council.**—SEC. 87. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith shall be presumed to be regular and duly done or taken until the contrary is shown, and when any proceeding, matter or thing is by this act

<sup>4</sup> See No. 672, §§ 39, 40, 41, 42, *supra*.

committed or left to the discretion of the council, such discretion or judgment when exercised or declared is final and cannot be revived \* or called in question elsewhere.

§ 37. **What Shall Not Be Necessary to Recite in Deed.**—SEC. 88. In making a deed for real property sold for delinquent taxes it is not necessary to recite or set forth the proceedings prior to sale, but it is sufficient, if it substantially appear from such deed that the property was sold by virtue of a warrant from the city of Spokane Falls, and the amount thereof, for a delinquent tax, together with the date of the sale and the amount paid thereat by the purchaser.

\* \* \* \* \*

§ 38. **Appraisement and Settlement of Damages for Establishing Grade of Street, etc.**—SEC. 90. When the grade of any street, highway or alley shall have been established by authority of the city of Spokane Falls, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterward change such established grade or shall change such grade or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property, which shall have been improved, the city shall pay to the owner or owners of the property injured the amount of such damage, and when the parties interested are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property, and one by the two so appointed, or in case of their disagreement, by the city council. Said appraisers shall be sworn to faithfully execute their duties to the best of their ability. They shall view the premises and receive legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment; they shall assess the damages sustained over and above the additional value of property by reason of the improvement or change. They shall sign their report and deliver the same to the clerk of the district court, holding terms at the county seat of Spokane county, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final and the city shall pay the amount assessed, and upon filing a precept therefor, the party entitled thereto may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk shall, upon filing a precept therefor by the city, or by any person aggrieved, within said twenty days, enter the case upon the trial docket of the next term of said court; the party claiming damages shall be plaintiff, and the city shall be defendant. The usual pleadings in a civil action may be filed or such special pleadings as the court shall allow, and the issues thus formed shall be tried as in other civil actions; the costs to be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the case has been tried at the instance of the city for the purpose of reducing the amount of damages and the damages are not reduced. Otherwise the costs shall be taxed against the parties claiming damages.

§ 39. **Appraisement and Settlement of Damages for Appropriation of Private Property.**—SEC. 91. When private property shall have been condemned and the compensation to be paid therefor shall be made a charge upon the property benefited thereby as provided in section eleven of this act, the assessments upon the various lots or parcels of land so charged, and the appraisement of damages to be paid to the owners of property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of property condemned or damaged, or if either or both of said classes of property



owners fail or refuse to make such appointment after ten days' notice, given in the manner prescribed in the ordinance providing for such condemnation of property, either or both of said appointments shall be made by the city council. The persons so appointed shall be sworn; shall proceed in making the assessment, and shall report within the time and in the manner prescribed for making appraisements in the preceding section. Their award shall be final unless objection is made within twenty days from the time of the return thereof to the clerk of the district clerk.\* Any party aggrieved by the award may, upon filing a praecipe therefor, have the case docketed for trial at the next term of the court. When issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant, and when the issue to be tried relates to excessive or unfair assessments upon property, the city shall be plaintiff and the owner of the property defendant. The issue shall be made up, the cause tried and determined, and the costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city, and all costs of the appraisal and other proceedings under this section shall be added to the gross amount to be raised by assessment and collected from the several property holders in the same proportion as the gross amount, and said assessment shall be a lien upon the property therewith charged.

§ 40. **Manner of Appropriation in Other Cases.**—SEC. 92. In all other cases where private property condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

§ 41. **Force and Effect of Ordinances Heretofore Passed.**—SEC. 93. All valid ordinances of the city of Spokane Falls, when this act takes effect, and until the same are repealed, and all rights vested and liabilities incurred when this act takes effect shall not thereby be lost, impaired or discharged.

§ 42. **Repealing Clause.**—SEC. 94. All acts and parts of acts relating to the incorporation of the city of Spokane Falls, and not herein reserved, are hereby repealed.

§ 43. **Date in Effect.**—SEC. 95. This act shall take effect and be in force from and after the first day of February, 1886.

\* Court.

## CHAPTER XVIII.—CITY OF SPRAGUE.

**No. 781.—AN ACT TO INCORPORATE THE CITY OF SPRAGUE, AND TO PARTICULARLY DEFINE THE POWERS THEREOF.<sup>1</sup>**

### CHAPTER I.

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. The corporate limits of the city of Sprague shall be and the corporate boundaries thereof shall include the following legal subdivisions of land, to wit: The east half of the southeast quarter of section (14) fourteen; the northeast quarter and the north half of the southeast quarter of section (28) twenty-three; and the west half of the northwest quarter and the northwest quarter of the

sopthwest quarter of section (24) twenty-four, all being in township number (21) twenty-one north, of range number (38) thirty-eight east, W. M.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 242.) This No., after the section above given, is *verbatim* as No. 717, *supra*, except wherever in said number the word "Ainsworth" appears read "Sprague;" and wherever "Whitman" appears read "Lincoln;" also omit § 47, and at the end of said No. add the following sections: "Sec. 125. All the trusts for private persons and all the right to property vested or existing in the city of Sprague by virtue of any act of the legislative assembly of the Territory of Washington or city organization under the laws thereof, and by the acts of congress, are hereby imposed and granted to the city of Sprague as created by this act, as the successor thereof. Sec. 126. The rights, powers and duties and liabilities of the city of Sprague and of its several officers shall be those presented in this act and none others, and this is hereby declared a public act. Sec. 127. Whenever an addition to said city shall be platted and recorded in the office of the county auditor of Lincoln county as required by law, then and in that case the city of Sprague shall have power by ordinance to include such addition within the corporate limits thereof: *Provided always*, That such addition is joined to the already established boundaries of said city. Sec. 128. All other acts and parts of acts in relation to the subject-matter herein contained in so far as they affect the city of Sprague be and the same are hereby repealed."

## CHAPTER XIX.—CITY OF STEILACOOM.

### No. 782.—AN ACT TO INCORPORATE THE CITY OF STEILACOOM.<sup>1</sup>

#### ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the city of Steilacoom shall be bounded as follows: Commencing at the northeast corner of Lafayette Balch's land claim, thence south along the line of said claim to the southeast corner of the town plat of said town; thence westerly along the line of said town plat to the east line of John M. Chapman's portion of said town; thence south along said line to the southeast corner of said town plat; thence west along the line of said town plat to the bay (or Puget Sound); thence northerly, the meanderings of the bay (or Puget Sound), to Sand Point, known as "Chapman's Point;" thence easterly, the meanderings of the bay (or Puget Sound), to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the said city of Steilacoom shall be, and they are hereby constituted a body politic and corporate by the name of "The City of Steilacoom," and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued, plead and be impleaded, in all courts of law whatsoever, and receive property, personal and real, within said city for public buildings, public works and city improvements, and may dispose of the same in any way for the benefit of the city. May purchase property beyond the limits of the city to be used for burial purposes, and for the establishment of a hospital for the reception of persons affected with contagious or other diseases, also for water-works to supply the city water, and may dispose of the same for the benefit of said city. And they shall have a seal which they may alter at pleasure.

#### ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. For the government of the city, there shall be elected in the manner hereinafter provided, the following officers: A common council (consisting of seven members), a mayor, recorder, a treasurer, a marshal, an assessor, who shall hold their

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 455.)

offices for one year, and until their successors shall be duly elected and qualified, and there shall be appointed annually, by the city council,  
\* \* \* a street commissioner, a city surveyor, a city collector, \* \* \*

\* \* \* \* \*

ARTICLE IV.

\* \* \* \* \*

§ 4. **Powers of the Council.**—SEC. 4. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States, or to the laws of this Territory, necessary to carry into effect the provisions of this chapter. (2) To levy taxes not to exceed one-half of one per centum per annum upon all real and personal property made taxable by law for Territorial and county purposes.

\* \* \* \* \*

ARTICLE VII.

\* \* \* \* \*

§ 5. **Date in Effect.**—SEC. 8. This act to take effect whenever the citizens of Steilacoom shall have elected the officers provided for in this act, and shall have fully organized under the same.

**No. 783.**—AN ACT DECLARING VACANT THE EXISTING ALLEYS IN BLOCK NO. SIXTY, LAFAYETTE BALCH'S PART OF THE TOWN OF STEILACOOM, AND FIXING THE PARTIES TO WHOM THE ALLEYS, WHEN VACATED, SHALL BELONG.<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.,* That the alleys in block No. sixty, in Lafayette Balch's part of the town of Steilacoom, in Pierce county, Washington Territory, that is to say, the public lanes running through the center of said block at right angles, and ten feet wide, be and the same are hereby declared vacant, and the said alleys or lanes are hereby declared to belong to the persons owning the lots bordering on the same, in equal proportions, that is to say: Five feet of the said alleys or lanes are attached to and belong to the lots lying adjacent to said alleys.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 23, 1863. (See Tenth Reg. Sess. 1862-63, p. 42, Local Laws.) All conflicting laws and parts of laws repealed. In effect from date.

**No. 784.**—AN ACT DECLARING VACANT CERTAIN ALLEYS, AND ALSO A PART OF CERTAIN STREETS IN LAFAYETTE BALCH'S PART OF THE TOWN OF STEILACOOM, AND FIXING THE PARTIES TO WHOM THE SAME SHALL BELONG, WHEN SO VACATED.<sup>1</sup>

§ 1. **Alleys Vacated.**—SECTION 1. *Be it enacted, etc.,* That the alleys in blocks number thirty (30), thirty-two (32), thirty-three (33), forty-four (44), forty-five (45) and fifty-three (53) in Lafayette Balch's part of the town of Steilacoom, in Pierce county, Washington Territory, that is to say, the public lanes running through the center of said blocks at right angles and ten feet wide, be and the same are hereby declared vacant, and the said alleys or lanes are hereby declared to attach and belong to the lots or owners of lots upon which they shall respectively border in equal proportions.

§ 2. **Part of Starling and Chambers Streets Vacated.**—SEC. 2. That so much of Starling and Chambers streets as is situated and lying between said blocks number thirty-two (32), thirty-three (33), forty-four (44) and forty-five (45) be and the same is hereby declared vacant, and the said parts of streets above described are hereby declared to attach and belong to the lots or owners of lots upon which they respectively border in equal proportions.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 8, 1864. (See Eleventh Reg. Sess. 1863-64, p. 75.) In effect from date.

**No. 785.—AN ACT DECLARING VACANT THE EXISTING ALLEYS IN BLOCKS 17 AND 18 IN LAFAYETTE BALCH'S PART OF THE TOWN OF STEILACOOM, AND FIXING THE PARTIES TO WHOM THE ALLEYS, WHEN VACATED, BELONG.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the alleys in blocks No. seventeen and eighteen (17 and 18), in Lafayette Balch's part of the town of Steilacoom, in Pierce county, Washington Territory, that is to say, the public lanes running through the center of said blocks at right angles, and ten feet wide, be and the same are hereby declared vacant, and the said alleys or lanes are hereby declared to belong to the persons owning the lots bordering on the same, in equal proportions, that is to say, five feet of the said alleys or lanes are attached to and belong to the lots lying adjacent to said alleys.

\* \* \* \* \*  
 \* Passed Jan. 27, 1864. (See Eleventh Reg. Sess. 1863-64, p 75.) All conflicting laws and parts of laws repealed. In effect from date.

**No. 786.—AN ACT AMENDATORY OF AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF STEILACOOM," PASSED THE FIRST SESSION OF THE LEGISLATURE OF W. T.**

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the act of which this is amendatory shall be amended to read as follows, to wit: That the city of Steilacoom shall include within its limits all that portion of land known and designated upon the surveys of the United States in the county of Pierce and Territory of Washington, as the donation land claims of John M. Chapman, Lafayette Balch and Lemuel Bills. The same being bounded and described as follows, to wit: Commencing at a point 10 ch. 41 links N. of the S. E. corner of section 1, of township 19 north, range 1 E.; thence W. 17 ch. 94 links; thence N. 17 deg. 30 min., E. 1 ch. 50 links; thence N. 5 deg., E. 18 ch.; thence N. 27 deg. 15 min., E. 5 ch.; thence N. 4 deg., W. 8 ch.; thence N. 8 deg. 30 min., E. 12 ch.; thence N. 19 deg., E. 17 ch.; thence N. 24 deg. 15 min., E. 8 ch. 80 links; thence N. 68 deg., E. 5 ch.; thence N. 40 deg., E. 5 ch. 10 links; thence N. 45 deg., E. 2 ch. 49 links; thence N. 45 deg., E. 2 ch. 80 links; thence N. 76 deg., E. 6 ch.; thence S. 79 deg. 30 min., E. 6 ch. 80 links; thence N. 37 deg. 45 min., E. 5 ch.; thence N. 47 deg. 30 min., E. 5 ch. 40 links; thence N. 72 deg. 30 min., E. 6 ch. 91 links; thence N. 60 deg. 30 min., E. 6 ch. 50 links; thence N. 46 deg. 45 min., E. 7 ch. 50 links; thence N. 45 deg. 30 min., E. 6 ch.; thence N. 59 deg. E. 5 ch. 50 links; thence N. 68 deg., E. 7 ch.; thence N. 81 deg., E. 4 ch.; thence N. 85 deg. 30 min., E. 4 ch. 90 links; thence E. 43 ch.; thence S. 80 ch.; thence W. 40 ch.; thence S. 9 ch. 80 links; thence W. 38 ch. 30 links; thence S. 12 ch. 85 links; thence W. 29 ch. 32 links to the place of beginning, lying and being in sections 31 and 32, township 20 north, range 2 east, sections 5 and 6, township 19 north, range 2 east, section 1, township 19 north, range 1 east, and Sec. 36, township 20 north, range 1 east.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Steilacoom, within the limits above described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the city of Steilacoom, and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity, and in all suits and actions whatsoever; may purchase, ac-

<sup>1</sup> Approved Nov. 14, 1873. (See Fourth Blen. Sess. 1873, p. 491.) All conflicting acts and parts of acts repealed. In effect from date.

quire, receive and hold property, real, personal and mixed, for the use of said city; may lease, sell and dispose of the same for the benefit of the city; may purchase; acquire, receive and hold real property beyond the limits of the city to be used for burial purposes; also for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also for workhouses or houses of correction; also for the erection of water works to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same, and make a new one at pleasure.

ARTICLE II.

§ 3. **Government.**—SECTION 1. The government of said city shall be vested in a mayor, and a common council consisting of five members, who shall be elected by the qualified voters of said city, and shall hold their offices until ten days after the next annual election and until their successors shall be elected and qualified.

§ 4. **Officers.**—SEC. 2. There shall also be a city recorder, city marshal, city assessor, city treasurer, city clerk, to be elected by the qualified voters of said city.

ARTICLE III.

\* \* \* \* \*

§ 5. **Duties of Assessor.**—SEC. 6. The assessor shall, within such time as shall by ordinance be provided, make out and return to the common council a correct list of all the taxable property within the limits of the city, with the valuation thereof and the names of the persons liable to be taxed therefor. The mode of making out said list, ascertaining the value of the property, and collecting the taxes shall, as nearly as may be practicable, be the same as that prescribed by law for assessing and collecting Territorial and county taxes. The assessor shall also discharge such other duties as may by ordinance be prescribed.

\* \* \* \* \*

ARTICLE VI.

§ 6. **Powers of the Common Council.**—SECTION 1. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or of this Territory. (2) To levy and collect taxes not exceeding one-fourth of one per cent. per annum upon all property made taxable by law for county and Territorial purposes: \* \* \* (12) To remove all obstructions from streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repair of the same, as well as all sewers, gutters, water courses and underground drainage, and to require parties owning or occupying premises to clean and remove obstructions from streets, alleys, cross and sidewalks adjoining their property or the premises occupied by them, and to levy a discriminating tax on persons and property particularly benefited by the construction and repair of streets, side and cross-works,<sup>2</sup> sewers, gutters and drains, either with or without a general tax for general benefit of such works. \* \* \* (17) To prescribe the manner of building party walls and fences. \* \* \*

\* \* \* \* \*

ARTICLE VIII.

\* \* \* \* \*

§ 7. **Right of Repeal.**—SEC. 7. This act may be amended or repealed at the pleasure of the legislature.

\* \* \* \* \*

<sup>2</sup> Walks.



## CHAPTER XX.—CITY OF TACOMA.

**No. 787.—AN ACT TO INCORPORATE THE CITY OF TACOMA.<sup>1</sup>**

**§ 1. Boundaries and General Powers.**—SECTION 1. *Be it enacted, etc.*, That the city of Tacoma shall include within its limits the following described tract or tracts of land, namely: Commencing at the northwest corner of section thirty-one (31), township number twenty-one (21) north, range number three (3) east; thence south on the west side line of said section to the southwest corner of the same; thence east on the south side line of sections number thirty-one (31) and thirty-two (32), of township number twenty-one (21) north, range three east, four hundred rods; thence north three hundred and twenty (320) rods, to the section line dividing sections numbered twenty-nine (29) and thirty-two (32), east and west; thence east along said line to half or mean tide on Commencement bay; thence along the meanderings of said bay to the northwest corner of lot number one (1), section thirty (30), township number twenty-one (21) north, range three east; thence due south to the place of beginning. The inhabitants within such bounds shall be a body politic, and incorporated by the name and style of "The Inhabitants of the City of Tacoma," and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued in all courts, and have power to grant, purchase, hold and secure property, real and personal, within such city, and no other (burial grounds and cemeteries excepted); and may lease, sell and dispose of the same for the benefit of the city, and may have a common seal and alter it at pleasure.

**§ 2. Government.**—SEC. 2. The corporate powers and duties of the city shall be vested in a board of trustees, to consist of five members, who shall be elected by the qualified electors of the city on the first Monday of May in each year, and shall hold their offices for the term of one year, and until their successors are chosen and qualified.

\* \* \* \* \*

**§ 3. Power of Trustees.**—SEC. 6. The board of trustees shall have power to make such by-laws and ordinances, not inconsistent with the constitution of the United States and the laws of this Territory, as they may deem necessary to carry out the purposes of this act. They shall have power to prevent and remove nuisances; \* \* \* to construct pumps, aqueducts, reservoirs or other works necessary for duly supplying the city with water; to lay out, name, alter, keep open and repair the streets and alleys of the city; to provide such means as they deem necessary to protect the city from injury by fire; to levy and collect a tax annually for municipal purposes not exceeding two mills upon all taxable property, as is shown by the assessment made for Territorial and county purposes, and to impose penalties upon delinquent taxpayers, and to regulate the time of assessing and collecting municipal taxes; to impose and collect a poll tax of not exceeding one dollar per annum on every male inhabitant of twenty-one years and upwards; \* \* \* The roads, streets and alleys within said city limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to the improvement, repairs and cleaning thereof; and for the purpose of this act said city shall not be included in any road district, but the road tax due by law within said city shall be collected by the city marshal at such time as may be directed by ordinance, and be expended under his direction as prescribed by ordinance. \* \* \*

<sup>1</sup>Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 166.) In effect from date.

\* \* \* \* \*

§ 4. **Duties of Assessor.**—SEC. 8. The board of trustees shall have power to appoint a clerk who shall be *ex-officio* assessor, and shall take his assessment from the county assessment of the same year, and neither the clerk or the board of trustees shall have power to raise any assessment above the county assessment of that year. They shall also appoint a treasurer and a marshal, who shall also be the collector of taxes levied by the board of trustees; and said board shall by ordinance, prescribe their duties and the mode in which they may be performed. \* \* \*

\* \* \* \* \*

§ 5. **Collection of Tax.**—SEC. 12. If any person fail to pay any tax levied upon his real or personal property the tax collector may recover the same by suit in the name of the corporation before any court of competent jurisdiction, together with all the costs of suit.

\* \* \* \* \*

§ 6. **Limit of Liability.**—SEC. 17. The board of trustees of the city of Tacoma shall have no power to contract liabilities, either by borrowing money, loaning the credit of the city, or contracting any debt or debts which singly or in the aggregate shall exceed the sum of five hundred dollars.

\* \* \* \* \*

• **No. 788.—AN ACT TO CONFER A CITY GOVERNMENT UPON NEW TACOMA.**<sup>1</sup>

CHAPTER I.

§ 1. **General Powers.**—SECTION 1. *Be it enacted, etc.,* That the inhabitants of New Tacoma, Pierce county, Washington Territory, and their successors, within the limits hereinafter prescribed, are hereby constituted and declared to be a city corporation by the name and style of New Tacoma, and by such name shall have perpetual succession, sue and be sued, plead and be impleaded in all courts of justice, and in all actions, suits or proceedings whatever; may purchase, hold and receive property, both real and personal, within said city for public buildings, public works and city improvements; may lease, sell or dispose of the same for the benefit of the city; may purchase, hold and receive property, both real and personal, beyond the limits of the city to be used for city parks, for burial purposes, for the establishment and maintenance of a hospital for the reception of persons affected with contagious or other diseases, for work-houses and for houses of correction; also, for the erection of water works to supply the city with water, and may control, lease, sell or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter or break the same, or make a new one at pleasure.

§ 2. **Boundaries.**—SEC. 2. The corporate limits of New Tacoma shall be as follows: Commencing at the northwest corner of section five (5) in township twenty (20) north, of range 3 east; thence south along the west line of sections five (5) and eight (8) in said township, four hundred and eighty (480) rods to the southwest corner of the northwest one-quarter of said section eight (8); thence east four hundred and eighty rods to the center of section nine (9), township twenty north, of range 3 east; thence north to half or mean tide on Commencement Bay; thence in a northwesterly direction along the meanderings of said bay to the section line dividing sections twenty-nine (29) and thirty-two in township twenty-one (21) north, of range 3 east; thence west to the northeast corner of the northwest one-quarter of the northwest one-quarter of section

<sup>1</sup> Approved Nov. 5, 1881. (See Eighth Bien. Sess. 1881, p. 66.) In effect from date.

thirty-two (32) township twenty-one (21) north, of range 3 east; thence south three hundred and twenty rods to the Fifth Standard Parallel, and thence west to the place of beginning.

**§ 3. Control Over and Taxation for Roads Within City Limits.—SEC. 8.** The corporate city limits aforesaid shall not be included within any road district, nor shall the county commissioners of Pierce county have any jurisdiction over the expenditure of road tax collected therein; and so much of any county public road as lies within said corporate limits shall be kept in repair by the council of said city. But the said council may by ordinance vacate said road or parts thereof, and conform the same to opened and established streets. Said city shall be a separate and independent road district under the exclusive control of the said city corporation. All road taxes, whether road poll or road property taxes, levied, assessed or collected by virtue of the general road and revenue laws of the Territory of Washington, within the corporate limits of said city, shall belong to said city, and be expended therein under the authority and direction of the common council thereof upon country roads or parts thereof lying within said city limits and upon the streets and alleys of said city. The rate of taxation for road purposes shall be ascertained and be the same as fixed or levied for road purposes under the general laws of the Territory, but the time for demanding and collecting the same, whether road poll or road property taxes, shall be as prescribed by city ordinances. To secure to said city the full enjoyment of said road fund or tax, the city assessor may be authorized by ordinance at any time to make a full list of all persons within said city limits liable to road tax, both poll and property, and the road poll tax may be demanded and collected at such time as shall be fixed by ordinance. As soon as the annual assessment shall have been returned and corrected, and filed with the county auditor of Pierce county, it shall be the duty of the city clerk to present said road list to the said county auditor, who, at the cost and expense of said city, shall transcribe to said list the assessed value of all taxable property within said city and the amount of road property tax due thereupon within said city limits. Said property road tax may forthwith be demanded, collected and disbursed as aforesaid, within said city limits, in accordance with city ordinances directing the appropriation of said road fund. The city may appropriate for its general municipal fund money to aid in the opening of streets or work upon roads or bridges within city limits, but the said city shall not be entitled to receive from the county of Pierce any appropriation of county funds in aid of roads or bridges within the corporate limits of said city. Delinquent road taxes due within said city are collected as other delinquent road taxes are collected under the general laws of the Territory; and all road taxes, whether road poll or road property, levied or assessed within said city limits, paid to the county treasurer when other taxes are paid, or collected as delinquent or redeemed delinquent taxes, less the commissions for or expenses of collecting, shall be paid by said county treasurer to the city treasurer on demand made by the latter.

#### CHAPTER II.

**§ 4. Government.—SEC. 4.** The power and authority given to the city government of New Tacoma by this act shall be vested in a mayor and common council, together with such other officers as are in this act constituted or may be created under its authority.

**§ 5. Officers.—SEC. 8.** There shall be elected as hereinafter provided a \* \* \* marshal, clerk, \* \* \* street commissioner, \* \* \* assessor and collector, who shall be officers of the municipal corporation.

CHAPTER V.

§ 6. **General Powers of the Council.**—SEC. 25. The city council shall possess all the legislative powers granted by this act and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

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§ 7. **Style of Ordinances.**—SEC. 38. The style of every ordinance shall be, "The common council of New Tacoma does ordain as follows."

\* \* \* \* \*

CHAPTER VI.

§ 8. **Special Powers.**—SEC. 34. The city government of New Tacoma, within its incorporated limits, has power and authority—(1) To assess, levy and collect taxes for general municipal purposes, not to exceed one-half of one per centum per annum, upon all property, both real and personal, within the city which is by law taxable for Territorial and county purposes. (2) To make regulations for prevention of accidents by fire; to organize and establish a fire department; ordain rules of government of the same; to provide for engines and other apparatus, and a sufficient supply of water. (3) To purchase or condemn and enter upon and take any lands within or without the corporate limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon. The city shall have entire control of all such buildings and all lands purchased or condemned under the provisions of this subdivision, and of all streets, highways, squares and other public grounds within its limits established or appropriated to public use by authority of law, or which have been or may be hereafter dedicated to public use by any person or persons; and has power, in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same, and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city or the public existing prior to such conveyance. But when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners. (4) To provide for the lighting of the streets and furnishing the city with gas or lights, and for the erection or construction of such works as may be necessary or convenient therefor. (5) To provide for clearing, opening, graveling, improving and repairing of streets and highways and alleys; and for the prevention and removal of all obstructions therefrom or from any crossing or sidewalk; also to regulate cellar ways and cellar lights on sidewalks within the city; and to provide for clearing the streets; also for constructing sewers and clearing and repairing the same. (6) To construct and repair sidewalks, and to curb, pave, grade, macadamize and gutter any street, highway or alley therein at the cost and expense of the owners of the lots and parcels of land fronting on such street, highway or alley. But unless the owners of more than one-half of the property fronting upon the proposed improvements upon such street, highway or alley shall have petitioned the council to make the same, such improvement shall not be made. (7) To cause any lot of land within its limits on which water at any time becomes stagnant, to be drained or filled up; and to cause any vault within the city to be cleaned when necessary; and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council with reference to such matters, after such notice as in such ordinance or resolution may be prescribed, the work necessary may be done by the city at the expense of the owner, and the amount collected by action in the name of the city, in any

court having jurisdiction. (8) To prescribe by an ordinance the mode by which the charge on the respective owners of lots or lands shall be determined for the purposes authorized by this act. Such charge may be collected by civil action in the name of the city. In such proceedings it shall be sufficient to declare generally for work and labor done and materials furnished on the particular lot, parcel of land, street, highway or alley. If the court trying the same shall be satisfied that the work has been done or the material furnished, which, according to the true intent and meaning of this act, would be properly chargeable to the owner of the lot of land through or by which the street, highway or alley improved or repaired may pass, judgment shall be rendered for the value of the work or materials performed or furnished on such lot of land, notwithstanding any informality or defects in the proceedings of the officers of the city. In such actions the city shall be entitled to recover, in addition to the amount, interest thereon at ten per cent. per annum from the time said work was done or materials furnished, together with five per cent. per annum to defray the expenses of collection, which shall be included in the judgment rendered. (9) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets; and to establish the grade of all streets within the city; and to lay off, widen, straighten, change, extend, vacate and establish streets, highways and alleys and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes; and to authorize or forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places; but no railway track can thus be located and laid down until after the injury to property abutting upon the street, alley or public place upon which the track is proposed to be located and laid down has been ascertained and compensated. \* \* \* (20) To levy and collect a special tax, not to exceed one per centum in any year, upon all the property assessed by authority of subdivision one of this section for any purpose within the authority of the corporation, including the payment of any existing debt; but the ordinance providing therefor must specify the object therefor and the estimated amount therefor, and the indebtedness of the city must never exceed in the aggregate the sum of ten thousand dollars, and any debt or liability incurred in excess of said sum of ten thousand dollars shall be invalid and void. (21) To adopt proper ordinances for the government of the city, and to carry into effect the powers given by this act; \* \* \*

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#### CHAPTER VIII.

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**§ 9. Duties of Assessor.**—SEC. 48. The assessor must annually make a correct list of all the property subject to taxation by the city, with the valuation thereof, and certify and return the same to the clerk.

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**§ 10. Manner of Assessment.**—SEC. 50. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes; but the form of the assessment roll and the rule for ascertaining the ownership of property, and in whose name it may be assessed, may be prescribed by ordinance, and the time of making such assessment and return thereof, and of applying to the council for revision thereof, must be prescribed by ordinance.

**§ 11. Duties of Collector.**—SEC. 51. The collector shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the treasurer monthly.



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§ 12. **Other Officers.**—SEC. 55. The powers and duties of all other officers of the city shall be prescribed by ordinance.

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CHAPTER IX.

§ 13. **Ordinances.**—SEC. 58. All ordinances and resolutions, or orders for the appropriation or payment of money, shall require, for their passage and adoption, the concurrence of a majority of all the members of the council; no ordinance shall refer to more than one subject, which shall be clearly expressed in its title, and no ordinance or section thereof shall be revised or amended, unless the new ordinance contains the entire ordinance or section revised or amended, and the ordinance or section so amended shall be repealed.

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CHAPTER X.

§ 14. **Collection of Delinquent Taxes.**—SEC. 60. The assessor shall, when directed by the common council, make out a list of all persons within the city, liable to pay a road tax, and return such list to the council; said list of names shall be given to the collector, and he shall at once proceed to collect such road poll tax, together with the municipal tax levied for the year, from each person upon said list. The collector shall place upon his list the names of all persons found within the city, liable to pay such road poll tax, who shall fail to produce a receipt for the payment of a road poll tax for the current year, and shall demand the amount due from each person named upon the list. All penalties and forms prescribed by the laws of the Territory for the enforcement and collection of road taxes, shall apply to the collection of such taxes within said city limits.

§ 15. **Rate of Interest on Taxes.**—SEC. 61. Whenever any general or special tax has been levied, as provided and authorized in this act, every part thereof shall bear interest at the legal rate from the time it is due and payable until paid or collected.

§ 16. **When Taxes Become Delinquent.**—SEC. 62. The council must provide by ordinance within what time all municipal taxes, whether general or special, may be paid to the treasurer; and all taxes not paid to the treasurer within such time, are thereafter delinquent taxes, and the treasurer must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

§ 17. **Warrant for Collection.**—SEC. 63. The council must thereafter order the clerk to deliver the tax roll to the collector, and issue and annex thereto a warrant, directed to the county treasurer or collector of delinquent county and Territorial taxes, authorizing the collection of the delinquent taxes upon such roll in the manner provided by law for the collection of delinquent Territorial and county taxes, and thereafter all proceedings for the collection of such delinquent taxes, shall be as regulated and prescribed in the laws of the Territory relating to the collection of delinquent taxes.

CHAPTER XI.

\* \* \* \* \*

§ 18. **Actions Concerning Assessments, etc.—Discretion of Council.** SEC. 69. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceedings thereon, such assessment, levy, consequent proceedings, and all proceedings connected therewith, shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment

when exercised or declared, is final and cannot be reviewed or called into question elsewhere.

**§ 19. Force and Effect of Ordinances Heretofore Adopted.—SEC. 70.** All ordinances passed and acts done and performed under the town corporation, known and styled "The inhabitants of the town of New Tacoma," pursuant to the incorporation made under the act entitled "An act to provide for the incorporation of towns, approved" November 29, 1871,<sup>2</sup> or either or any of them, in force when this act takes effect, and not inconsistent therewith, or with the laws of Washington Territory, shall be and remain in full force after this act takes effect, and thereafter with like effect as ordinances passed by the common council of New Tacoma until repealed. All rights vested or liabilities incurred under either of such ordinances or acts of said town corporation when this act takes effect, shall not thereby be lost, impaired or discharged; but any and all acts lawfully performed by said town corporation by virtue thereof are hereby ratified and legalized.

\* \* \* \* \*

**§ 20. Petition for Improvement.—SEC. 72.** No street, highway or alley shall be extended, widened, altered or vacated, except on petition to the city council, signed by a majority of the resident owners of real estate within the block or blocks in or through which such street, highway or alley is proposed to be extended, widened, altered or vacated.

**§ 21. Appraisement and Settlement of Damages for Establishing Grades, etc.—SEC. 73.** When the grade of any street, highway or alley shall have been established by authority of the city, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterward change the established grade or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property, which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage; and when the parties interested are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property, and one by the two so appointed, or in case of their disagreement, by the city council; such appraisers shall be sworn to faithfully execute their duties according to the best of their ability; they shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment. They shall assess the damage sustained, over and above the additional value of the property, by reason of the change or improvement. They shall sign their report and deliver the same to the clerk of the district court holding terms at the county seat of Pierce county, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final, and the city shall pay the amount so assessed, and the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk of said district court shall, upon filing a written precipe therefor, by the city or any person aggrieved, within said twenty days, enter the case upon the trial docket for the next term; the party claiming damages shall be the plaintiff, and the city shall be the defendant; the usual pleadings in a civil action may be filed, or such special pleadings as the court shall allow, and the issue thus formed shall be tried as other civil actions, the costs to be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the cause has been tried at the instance of the city for the purpose of reducing the amount of damages and the damages are not so reduced, otherwise the costs shall be taxed against the parties claiming damages.

<sup>2</sup> See No. 434, *supra*

**§ 22. Appraisement and Settlement of Damages for Appropriation of Private Property.**—SEC. 74. When private property shall have been condemned, and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, the appraisement of damages to be paid to the owners of the property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of property condemned or damaged, or if either or both said classes of property owners fail or refuse to make such appointment, after ten days' notice so to do, which notice shall be given in the manner to be prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn, and shall report within the time and in the manner prescribed for appraisements in the preceding section; this award shall be final unless appeal is made within twenty days from the time of the return thereof to the district court. Any person aggrieved by the award may, upon filing a precipe therefor, have the case docketed for trial at the next term of court; when the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair charges upon property, the city shall be plaintiff and the owner of the property defendant; the issue shall be made up, the case tried and determined, and costs [taxed] as provided in the preceding section: *Provided*, That all costs taxed against the city, and all costs of the appraisements and other proceedings under this section shall be added to the gross amount to be collected from the several property holders, in the same proportion as said gross amount, and said judgment and costs shall be a lien upon the property therewith charged.

**§ 23. Manner of Appropriation in Other Cases.**—SEC. 75. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property; and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

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**No. 789.—AN ACT TO CONSOLIDATE THE CITIES OF TACOMA AND NEW TACOMA, UNDER THE NAME OF TACOMA.<sup>1</sup>**

**CHAPTER I.**

**§ 1. Consolidation and General Powers.**—SECTION 1. *Be it enacted, etc.*, That on and after the first Monday of January, 1884, the city of Tacoma, incorporated November 12, 1875, and New Tacoma, incorporated November 5, 1881, shall be consolidated under one city government, to be known as Tacoma. The inhabitants of Pierce county, Washington Territory, and their successors, within the limits hereinafter prescribed, are hereby constituted and declared to be a city corporation by the name and style of Tacoma, and by such name shall have perpetual succession, sue and be sued, plead and be impleaded in all courts of justice, and in all actions, suits or proceedings whatsoever; may purchase, hold and receive property, both real and personal, within said city, for public buildings, public works and city improvements; may lease, sell or dispose of the same for the benefit of the city; may purchase, hold and receive property, both real and personal, beyond the limits of the city, to be used for city parks, for burial purposes, for the establishment and maintenance

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 310.) In effect from date.

of a hospital for the reception of persons affected with contagious diseases, for workhouses, and for houses of correction; also, for the erection of water works to supply the city with water, and may control, lease, sell or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter or break the same, or make a new one at pleasure.

**§ 2. Boundaries.**—SEC. 2. The corporate limits of Tacoma shall be as follows: Commencing upon the shore line of Commencement Bay, where it is intersected by the section line dividing sections twenty-three (23) and twenty-four (24), township twenty-one (21) north, two (2) east: thence south along section line to southwest corner of section twenty-five (25) in said township; thence east to township line between ranges two (2) and three (3) east; thence south along said township line to southwest corner of section six (6), township twenty (20) north, three (3) east: thence east along section line south boundary of section six (6) to the southeast corner of section six (6); thence south on boundary line between sections seven (7) and eight (8) to the southwest corner of section eight (8); thence east on south line of sections eight (8), nine (9) and ten (10) to the west boundary line of Puyallup Indian Reservation; thence northerly along the west boundary of said reservation to the north boundary of Pierce county; thence following said boundary westerly to a point opposite the point of beginning on the shore line of Commencement Bay; thence south to the point of beginning—including sections twenty-four (24) and twenty-five (25), township twenty-one (21) north, two (2) east, sections twenty-nine (29), thirty (30), thirty-one (31), thirty-two (32), thirty-three (33) and thirty-four (34), township twenty-one north, three (3) east, and sections four (4), five (5), six (6), eight (8), nine (9), and fractional sections three (3) and ten (10), in township twenty north, three (3) east.

**§ 3. Collection of Road Taxes, etc.**—SEC. 3. The corporate limits aforesaid shall not be included within any road district, nor shall the county commissioners of Pierce county have any jurisdiction over the expenditure of road tax collected therein; and so much of any county public road as lies within said corporate limits, shall be kept in repair by the council of said city; but said council may, by ordinance, vacate said road or part thereof, and conform the same to opened and established streets. Said city shall be a separate and independent road district, under the exclusive control of the said city corporation. All road taxes, whether road poll or road property taxes, levied, assessed or collected, by virtue of the general road and revenue laws of the Territory of Washington, within the corporate limits of said city, shall belong to said city, and be expended therein, under the authority and direction of the common council thereof, upon county roads or parts thereof lying within said city limits and upon the streets and alleys of said city. The rate of taxation for road purposes shall be ascertained and be the same as fixed or levied for road purposes under the general laws of the Territory, but the time for demanding and collecting the same, whether road poll or road property taxes, shall be as prescribed by city ordinances. To secure to said city the full enjoyment of said road fund or tax, the city assessor or other officer may be authorized by ordinance at any time to make a full list of all persons within said city limits liable to road tax, both poll and property, which tax may be demanded and collected at such time as shall be fixed by ordinance. As soon as the annual assessment shall have been returned and collected and filed with the county auditor of Pierce county, it shall be the duty of the city clerk to present said road list to the said county auditor, who, at the cost and expense of said city, shall transcribe to said list the assessed value of all taxable property within said city, and the amount of road property tax due thereupon within said city limits. Said property road tax may forthwith be demanded, collected and disbursed as aforesaid, within said city limits, in accordance with city ordinances directing the appropria-

tion of said road fund. The city may appropriate from its general municipal fund money to aid in the opening of streets or work upon roads or bridges within city limits, but the said city shall not be entitled to receive from the county of Pierce any appropriation of county funds in aid of roads or bridges within the corporate limits of said city. Delinquent road taxes due within said city are collected as other delinquent road taxes are collected under the general laws of the Territory; and all road taxes, whether road poll or road property, levied or assessed within said city limits, paid to the county treasurer when other taxes are paid or collected as delinquent or redeemed delinquent taxes, less the commissions for or expenses of collecting, shall be paid by said county treasurer to the city treasurer, on demand made by the latter.

**§ 4. Divided Into Two School Districts.**—SEC. 4. Said corporate limits shall be divided into two school districts, to be respectively known as West Tacoma school district (late No. 10, Pierce county), and East Tacoma district (late No. 13, Pierce county). All of the city limits west of the late boundary line between the two cities consolidated by this act shall constitute the West Tacoma school district. The remainder of the city shall be embraced in and be known as East Tacoma school district. Said school districts shall be separate and independent school districts, entitled to receive and enjoy their separate share of the common school fund of the county, and maintain schools therein as though the consolidation had not been made; \* \* \*

CHAPTER II.

**§ 5. Government.**—SEC. 5. The power and authority given to the city government of Tacoma by this act shall be vested in a mayor and common council, together with such other officers as are in this act provided, or may be created under its authority.

\* \* \* \* \*  
**§ 6. Officers.**—SEC. 9. There shall be elected \* \* \* clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner, \* \* \* assessor and collector, who shall be officers of the municipal corporation.  
 \* \* \* \* \*

CHAPTER V.

**§ 7. Powers of the Council.**—SEC. 27. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

CHAPTER VI.

**§ 8. Style of Ordinances.**—SEC. 36. The style of every ordinance shall be, "The common council of the city of Tacoma does ordain as follows."  
**§ 9. Ordinances.**—SEC. 37. An ordinance shall not refer to more than one subject, which shall be clearly expressed in its title; and no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section revised or amended, and the ordinance or section so amended shall be repealed.

CHAPTER VII.

**§ 10. SEC. 41.** The city government of Tacoma has power and authority—  
**General Powers of Taxation.**—(1) To levy and collect taxes for general municipal purposes not to exceed one-half of one per centum per annum upon all property, both real and personal, within the city which



is by law taxable for Territorial and county purposes, upon the valuation shown by the annual assessment made by Pierce county; and to levy and collect special taxes upon the same assessed valuation as hereinafter provided. But all taxes for general and special municipal purposes, exclusive of claims against property owners for improvements as hereinafter provided, shall not exceed in any one year one and a half per centum of the property assessed.

**Protection from Fire: Taxation for.**—(2) To make regulations for prevention of accidents by fire; to organize and establish a fire department; ordain rules for the government of the same; to provide fire engines and apparatus and a sufficient supply of water, and to levy and collect a special tax of not to exceed three mills for either of such purposes. On the petition of more than one-half of the owners of ground within a prescribed area within said city, may prohibit the erection within such limits of any building, or addition to any building, unless the outer walls thereof be made of brick and mortar, iron, or stone and mortar, and may provide for the removal of any building, or any addition erected contrary to such prohibition.

**Appropriation of Private Property for Streets, etc.—Conveyances.**—(3) To purchase or condemn and enter upon and take any lands within or without the corporate limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon. The city shall have entire control of all such buildings and all lands purchased or condemned under the provisions of this subdivision, and all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city on the public, existing prior to such conveyance; but when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

**Lighting Streets, etc.: Taxation for.**—(4) To provide for the lighting of the streets and furnishing the city with gas or lights, and for the erection or construction of such works as may be necessary or convenient therefor; and has power to levy for either of said objects a special tax not exceeding two mills, or the expense of lighting said city may be paid out of the general fund.

**Opening, Improving, etc., Streets, etc.: Taxation for.**—(5) To provide for opening, clearing, grading, graveling, bridging, paving, macadamizing, curbing, guttering, draining, or other manner of improving or repairing of streets, highways and alleys, and for the construction and repairing of sidewalks upon said streets, highways and alleys. Said improvement shall not, however, be made at the expense of the owners of said lots or parcels of land fronting upon such street, highway or alley, or portion thereof, proposed to be improved in either of the manners herein recited, unless the owners of more than one-half of the property fronting upon the proposed improvement shall have petitioned the common council to order such improvement to be made, except as provided in chapter XI, sections 72, 73 and 74 of this charter.

**Construction of Sewers, etc.**—(6) To provide for the \* \* \* construction of sewers, gutters, or drains, and cleaning and repairing the same.

**Removal of Certain Nuisances: Collector of Expense.**—(7) To cause any lot of land within its limits, on which water at any time becomes stagnant, to be drained or filled up; and to cause any vault within the city to be cleaned when necessary; and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council, with reference to such matter, after such notice as in such ordinance or resolution may be prescribed, the work necessary may be done by the city at the expense of the owner, and become a charge upon the property and collected as other city claims against property for work and labor done thereupon are collected.

**Establishing Grade of Streets, etc.—Appropriation of Private Property for Street Railways.**—(8) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, change, extend, vacate and establish streets, highways and alleys, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes; and to authorize and forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places; but no railway track can be located and laid down until after the injury to property abutting upon the street, alley or public places upon which the track is proposed to be located and laid down has been ascertained and compensated. Such compensation shall be determined as in other cases where private property is taken for the use of the city.

**Erection, etc., of Water Works.**—(10) To erect and maintain water works within or without the city, or to authorize the erection of the same for the purpose of furnishing the city with a sufficient supply of water; but no such works shall be erected by the city until a majority of the voters of the city, at a general or special election, assent thereto.

**Special Taxes.—Limitation of Indebtedness.**—(21) To levy and collect a special tax in addition to those authorized in subdivisions two and four of this section, not to exceed one per centum in any year, upon all taxable property as shown by the annual assessment for Territorial and county purposes, for any purpose authorized by this charter, including the payment of an existing indebtedness. Every ordinance providing for the levy of a special tax must specify the object for which levied, and the estimated amount required to be raised. The indebtedness of the city must never exceed in the aggregate the sum of twenty-five thousand dollars, and any debt or liability incurred in excess of said sum of twenty-five thousand dollars shall be invalid and void.

**Incidental Powers.**—(24) \* \* \* such other powers and privileges not herein specifically enumerated as are incident to municipal corporations of like character and degree not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act according to the true intent and meaning thereof.

CHAPTER IX.

**§ 11. Duties of Assessor.**—SEC. 55. The assessor shall annually, within the month of May, or as soon as practicable after the annual assessment of Pierce county shall have been corrected and filed with the county auditor of said county, extract and compile therefrom a full and correct list of the taxable inhabitants of the city, exhibiting the valuation of real property within the city limits and taxable personal property, and

the road poll, road property and bridge tax, levied thereupon, which shall be called the annual city assessment. Omissions from said list may be supplied and noted by the assessor. Said city assessment shall be returned to and filed with the city clerk on or before the first Monday in June. Said assessor shall also take the census of inhabitants of said city when and in the manner directed by ordinance, and shall perform all other duties from time to time required of him by ordinance.

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#### CHAPTER X.

**§ 12. Levy and Collection of Taxes.**—SEC. 63. On the receipt by the city clerk of the city assessment, the mayor shall cause the common council to be notified that at their next regular meeting the annual municipal tax will be levied; at such regular meeting, or as soon thereafter as practicable, the council shall, by ordinance, levy a municipal tax for the year, and prescribe the time therein, not less than thirty days nor more than sixty days after said ordinance shall take effect, when municipal, road property and bridge taxes shall be paid, or draw interest thereafter at ten per centum per annum until paid. At such meeting or as soon thereafter as practicable, said common council shall, by ordinance, prescribe the time when the collector shall demand road poll taxes.

**§ 13. Correction of Omissions, etc.**—SEC. 64. The city assessor, clerk, collector, treasurer and collector of delinquent taxes are each and all empowered to list and attach a proper valuation to property which may have escaped assessment, or add names of persons liable to poll tax to such road poll list who may have been omitted, noting such addition as a supplementary assessment.

**§ 14. Road Poll Taxes.**—SEC. 65. The city clerk shall, from the said city assessment, make a road poll tax list containing the names of all persons found within the city liable to pay such road poll tax, and forthwith furnish said list to the collector, and he shall proceed at once to collect from such persons the said poll tax. The collector must add to said list the names of all persons found within the city liable to pay such road poll tax who shall fail to produce a receipt for the payment of a road poll tax for the current year, and shall demand the amount due for each person named upon the list. If the person on demand refuses to pay said tax, it shall be lawful to distrain upon his personal property not exempt from execution, and sell the same in the manner provided by law for constable's sales of property on execution; or it shall be lawful for the collector to give the opportunity to such delinquent to work out said tax and costs by work upon the streets.

**§ 15. Warrant for Collection of Such Taxes.**—SEC. 66. The warrant issued by the clerk for the collection of delinquent road poll taxes shall be deemed an execution against personal property, and shall have the force and effect thereof against any property not exempt from execution. If no personal property can be found whereon to levy the said warrant, said delinquent may pay said tax in labor upon the roads or streets within the city by performing three days' labor, \* \* \*

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**§ 16. Collection Notice.**—SEC. 68. On or before the fifteenth day of June, if before that time the city assessment has been filed and the municipal tax levy made by the common council, or if not then as soon thereafter as practicable, the city clerk shall place in the hands of the treasurer a correct transcript from the city assessment, excluding therefrom the road poll tax column, and the names of such persons as are only liable to road poll tax; which transcript shall be called "city tax transcript," and shall contain the municipal, road property and bridge tax levied within the city limits. The clerk shall annex thereto a warrant directing said treasurer to collect said taxes named therein. Said treas-

urer shall forthwith give public notice by three weekly insertions in the newspaper doing the city printing that said tax transcript is in his hands, that the taxes are payable, and the date at which interest accrues if they remain unpaid.

§ 17. **When Taxes Payable.**—SEC. 69. The council must provide by ordinance within what time all municipal taxes, whether general or special, may be paid to the treasurer; and all taxes not paid to the treasurer within such time thereafter draw interest at ten per centum per annum until paid.

§ 18. **Warrant for Collection of Delinquent Taxes.**—SEC. 70. The treasurer, after the 31st day of December of each year, shall return such city tax transcript to the city clerk, distinguishing thereon the taxes paid and those unpaid. The clerk shall thereupon issue and annex thereto a warrant directed to the county treasurer or collector of delinquent county and Territorial taxes, authorizing the collection of delinquent taxes upon such roll, in the manner provided by law for the collection of delinquent Territorial and county taxes, and thereafter all proceedings for the collection of such delinquent taxes shall be as regulated and prescribed in the laws of the Territory relating to the collection of delinquent taxes.

§ 19. **General Road Law Shall Govern.**—SEC. 71. All the penalties and forms prescribed by the general road laws of the Territory for the collection of road and bridge taxes, not herein modified, may be resorted to in the collection of said road and bridge taxes within the said city as fully as though the provisions thereof were embodied in any ordinance of said city referring to such taxes.

§ 20. **Collection of Taxes Heretofore Levied.**—SEC. 72. All municipal taxes heretofore levied by the city of New Tacoma and remaining unpaid when this charter shall go into effect, shall be collected as provided in said charter, or the ordinances passed levying the same, and when paid shall be applied to the liquidation of the outstanding debt of the late city of New Tacoma. All municipal taxes levied by the late corporation known as Tacoma city, and remaining unpaid when this charter goes into effect, shall be collected as provided by the charter of said Tacoma city, and when collected shall be paid into the school fund of West Tacoma.

#### CHAPTER XI.

§ 21. **Notice of Intention to Improve, etc.: Substance and Manner of.**—SEC. 73. Whenever in the judgment of the common council it shall become necessary or expedient to open any street, to establish or alter the grade of any street or alley of the city, or to make any improvements thereof, as authorized by subdivisions five (5) and eight (8) of section forty-one (41), the common council may cause a survey, diagram and estimate of the cost thereof to be made by the city surveyor, and the said survey, diagram and estimate shall be filed in the office of the city clerk for the inspection of all persons interested therein, and a notice of the filing of such survey, diagram and estimate shall be published weekly for two successive weeks in the paper doing the city printing. Such notice must specify the street or part thereof to be improved, and the kind of improvements proposed to be made, together with the cost and expense thereof, and that if sufficient remonstrance be not made before the expiration of ten days after date of last publication, said improvement will be made at expense of owners of property fronting upon the proposed improvement.

§ 22. **Effect of Remonstrance.**—SEC. 74. If within ten days from the final publication the persons owning one-half or more of the property fronting upon said proposed improvement shall file with the city clerk a remonstrance against said improvement, grade or alteration, the same shall not be made at the expense of the owners of property fronting upon said proposed improvement.

**§ 23. Effect of Failure to Remonstrate.—**SEC. 75. If no such remonstrance be made and filed as provided in the last section, the owners of lots fronting upon such street or alley, or portion thereof proposed to be improved, shall be deemed to have consented to the making of said improvement, and the council, at its earliest convenience thereafter, and within six months from the publication of such notice, may establish the proposed grade or make the proposed improvement, at the cost and expense of the owners of the lots and parcels of land fronting upon the proposed grade or improvement of such street, highway or alley.

**§ 24. Assessment of Abutting Property—Lien and Collection of.—**SEC. 76. Upon the completion of any of the improvements of such streets, highways and alleys, authorized by subdivisions five, seven and eight, section forty-one, which are charges upon the lots and land fronting thereupon, the street commissioner, or other officer designated by the council, may demand from each owner of such lot or lots fronting upon said improvement, the cost and expense of such improvement, or the work and labor actually performed or materials furnished in making such improvement in front of his or her lot; and such cost and expense shall be a charge upon such lot or lots from the time of the commencement of said work until paid. The filing of the statement of claims as hereinafter prescribed, with the city clerk and the county auditor of Pierce county, shall be notice to purchasers and incumbrancers of such charges upon said lots. The street commissioner or other officer, duly authorized by ordinance, at the expiration of the time within which such demands may be made upon such owners of lots, shall make out and verify an exhibit of the respective claims against each lot in tabular form, which shall be headed "City Claims Under Ordinance," ——— (giving title of ordinance) and shall be ruled in separate columns in which shall be designated the number of lot and block, name of owner or reputed owner, date of completion, number of days' labor and value, cost of material furnished and total expense chargeable upon each lot. Owners of lots, if aggrieved, shall have time in which to appeal to the council or to the committee on streets, at the expiration of which time the city clerk shall cause to be filed in the county auditor's office a certified transcript of said exhibit under his seal of office. The county auditor shall file said transcript and record it in the book of liens, indexing the owner or reputed owner as lienor and the city as claimant, for which he shall be entitled to charge the fee of twenty-five cents for each name so indexed; which sum shall be added to said claim and upon the enforcement of such lien shall be taxed and collected as costs. The owner of said lot may satisfy said charge at any time by paying the claims and costs with costs of satisfaction to the city treasurer, and the receipt of said officer shall authorize the auditor to enter "satisfied" on the margin of the record. At any time after sixty days from the filing of such statement of claims in the county auditor's office, the common council may direct the city attorney to enforce collections of said claims by suit. In suits to foreclose such lien the city shall be named as plaintiff. The whole or any portion of the parties in any one statement of claims based upon the same ordinance and for the same improvement may be joined in one notice or citation to appear and show cause why such charge, as exhibited in such statement, should not be decreed as a lien upon the respective lot fronting upon the improvement and said lot sold to pay the same. Such notice or citation may be served by notice published for three consecutive weeks in the newspaper doing the city printing, and a copy of said newspaper shall be served upon the premises named, if such lot be improved and anyone reside thereupon, or a copy of said newspaper shall be posted, as soon as first published, on such lot or lots if no one reside thereupon. The notice shall name the court, designate the lot by its number or by certain description, name of owner or reputed owner, amount of claim, and the time of hearing, which



shall not be less than twenty days after date of first publication. The filing of the verified statement of claims shall be sufficient complaint. If defendants fail to appear, answer or defend, on proof to the court that the provisions of the charter have been complied with, judgment shall be entered for the city. In such proceedings the verified statement of claims shall be *prima facie* evidence that the work and labor have been done and materials furnished on the particular lot, parcel of land, street, highway or alley. If the court trying the same shall be satisfied that the work has been done, or the material furnished, which, according to the true intent and meaning of this charter, would be properly chargeable to the owner of the lot or land through or by which the street, highway or alley improved or repaired may pass, judgment shall be rendered for the value of the work or materials performed or furnished on such lot of land, notwithstanding any informality or defects in the proceedings of the officers of the city. In such actions the city shall be entitled to recover in addition to the amount interest thereon at ten per cent. per annum from the time said work was done or materials furnished, and ten per cent. penalty and costs. At any time before sale of property upon execution, the owner may release the same from such lien by payment of claim and accrued costs. Claims due to the city of New Tacoma at the time this act shall go into effect, for improvements charged to the owners of property fronting upon the improvement made, shall be enforced in accordance with the provisions of this section. The city attorney shall cause a tabulated statement of such claims as herein prescribed, and file a verified copy of the same with the county auditor of Pierce county. When such statement is filed it shall have like effect as to lien, and be enforced in the same manner and with like penalties as in this section provided.

**§ 25. Rate of Interest.—SEC. 77.** All money paid or collected upon charges for the improvement of streets or alleys shall be kept as a separate fund and in no wise used for any other purpose whatever; all charges and claims by the city for improvements chargeable to lots or lands from the time of being filed as notice of liens, shall bear interest at the legal rate until paid.

**§ 26. Warrant of Sale.—SEC. 78.** Whenever any lot or part thereof shall be sold for more than the sum chargeable thereon, including costs of sale, the surplus must be paid to the city treasurer, and the person executing the warrant must take a separate receipt therefor and file it with the city clerk, and thereafter the owner or his legal representative shall, on application to the city council, be entitled to a warrant therefor.

**§ 27. What Deed Must Recite.—SEC. 79.** The deed to the purchaser must express the true consideration therefor, and the return of the person executing the warrant must specify the amount for which the lot was sold and the name of the purchaser.

#### CHAPTER XII.

**§ 28. Appraisement and Settlement of Damages for Changing Grade of Streets, etc.—SEC. 80.** When the grade of any street, highway or alley shall have been established by authority of the city, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterward change the established grade or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage; and when the parties interested are unable to agree with the city council as to the amount so to be paid, the same shall be appraised by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two so appointed, or in case of their dis-

greement, by the city council; said appraisers shall be sworn to faithfully execute their duties according to the best of their ability; they shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment; they shall assess the damage sustained over and above the additional value of the property by reason of the change or improvement; they shall sign their report and deliver the same to the clerk of the district court holding terms at the county seat of Pierce county, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final and the city shall pay the amount so assessed, and the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk of said district court shall, upon filing a written precipe therefor, by the city or any person aggrieved within said twenty days, enter the case upon the trial docket for the next term; the party claiming damages shall be the plaintiff and the city shall be the defendant; the usual pleadings in a civil action may be filed or such special pleadings as the court shall allow, and the issue thus formed shall be tried as other civil actions; the costs to be taxed against the city when the judgment is for a larger amount than was awarded by the appraisers, or the cause has been tried at the instance of the city for the purpose of reducing the amount of damages and the damages are not so reduced; otherwise the costs shall be taxed against the parties claiming damages.

**§ 29. Appraisement and Settlement of Damages for Appropriation of Private Property.**—SEC. 81. When private property shall have been condemned, and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, the appraisement of damages to be paid to the owners of property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of property condemned or damaged, or if either or both said classes of property owners fail or refuse to make such appointment after ten days' notice to do so, which notice shall be given in the manner to be prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn, and shall report within the time and in the manner prescribed for appraisement in the preceding section; this award shall be final unless appeal is made within twenty days from the time of the return thereof to the district court. Any person aggrieved by the award may, upon filing a precipe therefor, have the case docketed for trial at the next term of court; when the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair charges upon property, the city shall be plaintiff and the owner of the property defendant; the issue shall be made up, the case tried and determined and costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city and all costs of the appraisements and other proceedings under this section shall be added to the gross amount to be collected from the several property holders in the same proportion as said gross amount, and said judgment and costs shall be a lien upon the property therewith charged.

**§ 30. Appropriation in Other Cases.**—SEC. 82. In all cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owner of such property; and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate land by private corporations.

CHAPTER XIII.

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§ 31. **Regulation and Control of Additions to the City.**—SEC. 85. The city may regulate and provide as to the manner in which all additions to the city shall be subdivided into lots, blocks, streets and alleys, and the width, distance apart and direction of each street and alley, and the manner in which a plat shall be made thereof, and where filed, and the kind of monuments in all parts of the city, and place and manner of erection and maintenance thereof, to prevent mistakes and confusion of boundaries; and may cause an official map of said city to be made and kept for public inspection, which plat, certified by the city surveyor, shall be *prima facie* evidence that the lines as they appear are correct; and all surveys made by the city surveyor at the instance and expense of the city or private parties shall be official surveys, and a minute thereof shall be kept by the city surveyor as a part of his official records, and shall be *prima facie* evidence of their own correctness; and the city has power to enforce this ordinance and to prevent the sale of any real property not subdivided as aforesaid and plat made and filed as herein provided, and to compel the establishment and maintenance of such monuments, and to fine or imprison, or both, for a violation thereof; and when the boundary or existence of any public street, alley, easement or square is in doubt and the land claimed by a private party, the city may file a bill in equity to determine the right thereto.

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§ 32. **Actions Concerning Taxes, etc.—Discretion of Council.**—SEC. 87. In any action, suit or proceedings in any court concerning a charge or lien upon property or levy of taxes authorized by this act, or the collection of any such tax or proceedings thereon, such charge, levy, consequent proceedings and all proceedings connected therewith, shall be presumed to be regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is, by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and cannot be reviewed or called in question elsewhere.

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§ 33. **Petition for Improvement—Vacations.**—SEC. 89. No street, highway or alley shall be extended, widened or vacated, except on petition to the city council signed by a majority of the resident owners of real estate within the block or blocks in or through which such street, highway or alley is proposed to be extended, widened, altered or vacated. Said petition shall set forth the particular circumstances and the reasons for granting the same, and contain a certain description of the extension, widening, altering or vacation applied for. The petition shall be filed by the city clerk at least twenty days previous to the meeting of the council at which said petition shall be heard and determined, and notice of the filing and time fixed for hearing by council of said petition embodying briefly an intelligent statement of the matters therein contained shall be given for the same space of time, by written or printed notices posted in three of the most public places in the city, and three weekly insertions in the newspaper doing the city printing. The cost and expense of extension, widening or alteration of streets or alleys, and the charges against the respective lots fronting upon or including the improvement or alteration made shall be regulated by the provisions of this charter applicable to the other improvements of streets, and collection shall be enforced in the same manner. If any street or alley be vacated, the land so vacated shall be attached to the lots or ground bordering on such street or alley, and all right or title thereto shall vest in the person or persons owning the property on each side thereof in equal proportions. Where such vacation is of part of a street only, or where lots border upon one side

of such street only, such vacated land shall vest in the owner or owners of such lots bordering upon the vacated portion. All vacations or alterations of streets, highways or alleys, changes of town plats, blocks or lots, or any part thereof, and the disposal of the land vacated heretofore made by the said corporations of Tacoma city and New Tacoma, or either of them, are hereby confirmed, legalized and declared valid.

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#### CHAPTER XIV.

**§ 34. Method of Consolidation.**—SEC. 92. To complete the consolidation of said two cities and to provide an organization of the city government of Tacoma, established by this act, a special election shall be held on the second Monday in December, 1883, for mayor, city marshal and three councilmen for each ward, as designated in this act. \* \* \*

Upon the tenth day after said special election the board of trustees of Tacoma and the common council of New Tacoma shall meet in joint meeting at the office of the city clerk of New Tacoma, five of their number being a quorum, to act as a board of canvassers. Having elected one of their number chairman, they shall proceed to canvass the vote and make a statement of the same which shall be signed by the chairman and attested by the city clerk of New Tacoma, who shall act as clerk of said canvassing board. Certificates of election, if demanded, shall be signed by said chairman and attested by said clerk. The mayor, marshal and councilmen so elected shall qualify on or before the first Monday in January, 1884. At which time they shall enter upon the discharge of their duties in the manner hereinbefore described. The said officers so elected shall continue in office until the annual municipal election in May, 1884, or until their successors elected at such election shall duly qualify.

**§ 35. Special Tax for Payment Indebtedness.**—SEC. 93. For the purpose of providing a fund to pay and satisfy the outstanding warrants of indebtedness issued by the city of New Tacoma, and to extinguish its indebtedness, and to exempt the taxable property and taxable inhabitants within the city of Tacoma, as the same existed before the passage of this act, from any liability for or on account of such outstanding warrants and indebtedness of said city of New Tacoma, the common council of the city of Tacoma, incorporated by this act, shall, at their second regular meeting in January, 1884, or as soon thereafter as practicable, proceed to levy a special tax of not to exceed ten mills, upon all the taxable property as shown by the city assessment of New Tacoma for 1883, within the corporate limits of said city of New Tacoma, as defined by the act approved November 5, 1881, entitled "An act to confer a city government upon New Tacoma." The said council shall fix the time when such tax shall be demandable, after which it shall draw interest as other municipal taxes do under this charter. But this levy of special tax shall not be construed as preventing the levy of any special tax under the provisions of this charter for said year 1884. Said special tax, when collected, shall be applied to the payment of the New Tacoma city warrants, and to the extinguishment of any indebtedness outstanding against said city, upon the said first Monday of January, 1884. And any surplus which shall remain of said special tax after the payment of all such indebtedness and warrants, shall be placed to the credit of the school fund of East Tacoma school district.

**§ 36. Date of Consolidation—Repealing Clause, etc.**—SEC. 94. To enable the two cities herein and hereby consolidated to close their business, the city government of Tacoma established by this act shall not go into operation until the first Monday in January, 1884, upon which date the mayor or councilmen and marshal elected at the special election, in

pursuance of section ninety-two (92) of this act, shall qualify and enter upon the duties of their respective offices. The said common council, at their said meeting on the first Monday in January, 1884, shall perfect the organization of the city government by the election of other city officers, as required by this act, who shall duly qualify as herein prescribed. Such city officers so elected by the council shall hold their respective offices until their successors are elected and qualified. The said city of Tacoma, incorporated November 12th, 1875, and the said city of New Tacoma, incorporated November 5th, 1881, shall continue to act under their respective city charters until said first Monday in January, 1884, when both of said charters and said city governments thereunder shall cease and determine, and they shall be thereafter consolidated under the city government herein and hereby established. From and after said first day of January, 1884, the act entitled "An act to incorporate the city of Tacoma," approved November 12th, 1875,<sup>2</sup> and the act entitled "An act to confer a city government upon New Tacoma," approved November 5th, 1881,<sup>3</sup> shall be and are hereby repealed. But all ordinances passed and acts lawfully done and performed by either of said city corporations or the officers thereof, pursuant to said charters or any ordinance of said city, and any and all ordinances of either of said cities in force or unrepealed upon the said first day of January, 1884, and not inconsistent with this act or the laws of Washington Territory, shall be and remain in full force with like effect as though the same had been passed by the city of Tacoma, established herein, until repealed or rescinded. All warrants or certificates of indebtedness, all appropriations of money to certain specific funds, all taxes remaining unpaid, all claims, dues or demands in favor of or due to either of said municipal corporations, all franchises, all contracts and liabilities lawfully made or incurred by said corporations, or either of them, all rights of every nature or kind vested, contingent, created or recognized by said charters, or the ordinances, resolutions or acts of said cities, or either of them, shall not by this consolidation or superseding of said two city charters by this act be lost, impaired or discharged, but shall be continued. And any and all acts lawfully performed by either of said corporations under their respective charters, by virtue thereof, are hereby ratified and legalized.

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<sup>2</sup> See No. 787, *supra*.

<sup>3</sup> See No. 788, *supra*.

**No. 790.—AN ACT REGULATING THE COLLECTION OF THE CITY TAXES OF THE CITY OF TACOMA FOR THE YEAR 1885.<sup>1</sup>**

**§ 1. Time for Payment, Extended.**—*Be it enacted, etc.* SECTION 1. The taxes levied by the city of Tacoma for the year 1885 shall not be collectible by the sheriff of the county of Pierce until after the 28th day of February, 1886, and until the 28th day of February, 1886, at six o'clock P. M. The treasurer of said city shall retain the city tax transcript of said year 1885, and collect said taxes in manner as he was authorized by law to collect the same on and before the 31st day of December, 1885. After the 28th day of February, 1886, the treasurer shall return said city tax transcript to the city clerk of said city, and the clerk shall thereupon issue and annex thereto a warrant to the sheriff for the collection of the said taxes then delinquent.

**§ 2. Time for Collection, Extended.**—SEC. 2. The said sheriff shall have until the third Monday in April, 1886, in which to enforce the collec-

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Blen. Sess. 1885-86, p. 497.) In effect from date.

<sup>2</sup> See No. 789, *supra*.



tion of said delinquent taxes by distraint of personal property; and shall commence the sale of real property for the collection of said taxes on the first Monday of June, 1886, having first made publication of notice thereof for the time and in the manner required by law.

§ 3. **Rule of Proceedings.**—SEC. 3. In all other respects than as herein provided, the proceedings shall be as provided in the charter of said city approved November 28, 1883.<sup>2</sup>

§ 4. **Extent of This Act.**—SEC. 4. The provisions of this act shall apply only to the city taxes levied in the year 1885.

§ 5. **Repealing Clause.**—SEC. 5. All acts and parts of acts in conflict with the provisions of this act are hereby modified in accordance herewith.

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**No. 791.**—AN ACT TO PROVIDE FOR THE PAYMENT OF THE OUTSTANDING INDEBTEDNESS OF THE CITY OF NEW TACOMA, INCORPORATED BY AN ACT ENTITLED "AN ACT TO CONFER A CITY GOVERNMENT UPON NEW TACOMA," APPROVED NOVEMBER 5, 1881, AND FOR THE LEVY OF A TAX THEREFOR BY THE CITY OF TACOMA UPON THE TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF SAID CITY OF NEW TACOMA.<sup>1</sup>

§ 1. *Be it enacted, etc.,* SECTION 1. For the purpose of providing a fund to pay and satisfy the outstanding warrants of indebtedness issued by the city of New Tacoma, incorporated by an act entitled "An act to confer a city government upon New Tacoma," approved November 5, 1881,<sup>2</sup> and consolidated with the city of Tacoma, under the name of Tacoma, by an act entitled "An act to consolidate the cities of Tacoma and New Tacoma, under the name of Tacoma," approved November 28, 1883,<sup>3</sup> and to extinguish the indebtedness of said city of New Tacoma, the city council of the city of Tacoma, incorporated by said last mentioned act shall, at the time of the levy of the annual municipal tax for the year 1886, proceed to levy a special tax of not to exceed four mills, upon all the taxable property, as shown by the city assessment of said city of Tacoma for 1886, within the corporate limits of said city of New Tacoma as defined by said act approved November 5, 1881. The said council shall fix the time when such tax shall be payable, after which it shall draw interest and be collected as other municipal taxes under the said charter of the said city of Tacoma, approved November 28, 1883, and any and all acts in amendment and addition thereto. But this levy of special tax shall not be construed as preventing the levy of any special tax authorized by said charter for said year 1886. Said special tax, when collected, shall be applied to the payment of the New Tacoma city warrants and to the extinguishment of any indebtedness outstanding against said city of New Tacoma, upon the first Monday of January, 1884; and any surplus which shall remain of said special tax after the payment of all such indebtedness and warrants shall be paid into the school fund of East Tacoma school district.

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<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 498.) In effect from date.

<sup>2</sup> See No. 788, *supra*.

<sup>3</sup> See No. 789, *supra*.

**No. 792.—AN ACT TO INCORPORATE THE CITY OF TACOMA AND DEFINE THE POWERS THEREOF.<sup>1</sup>****CHAPTER I.**

**§ 1. General Powers.**—SECTION 1. *Be it enacted, etc.,* The inhabitants of Pierce county, Washington Territory, and their successors, within the limits and boundaries hereinafter prescribed, are hereby constituted and declared to be a city corporation by the name and style of Tacoma, and by such name shall have perpetual succession, sue and be sued, plead and be impleaded, in all courts of justice, and in all actions, suits or proceedings whatsoever; may purchase, hold and receive property, both real and personal within said city for public buildings, public works and city improvements; may lease, sell or dispose of the same for the benefit of the city; may purchase, hold and receive property, both real and personal, beyond the limits of the city, to be used for city parks, for burial purposes, for the establishment and maintenance of a hospital for the reception of persons affected with contagious diseases, for workhouses and for houses of correction; also for the erection of water works to supply the city with water, and may control, lease, sell or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter or break the same, or make a new one, at pleasure.

**§ 2. Boundaries.**—SEC. 2. The corporate limits and boundaries of Tacoma shall be as follows: Commencing upon the shore line of Commencement Bay, where it is intersected by the section line dividing sections twenty-three (23) and twenty-four (24) in township twenty-one (21) north, of range two (2) east, and running thence south along section lines to southwest corner of section twenty-five (25) in said township; thence east to township line between ranges two (2) and three (3) east; thence south and along said township line to the southwest corner of section six (6) in township twenty (20) north, of range three (3) east; thence east along section line on south boundary of section six (6) to the southeast corner of said section six (6); thence south along the section line between sections seven (7) and eight (8) to the southwest corner of section eight (8); thence east along section line on south boundary of sections eight (8), nine (9) and ten (10) to west boundary of said Puyallup Indian reservation; thence northerly along the west boundary of said reservation to the north boundary of Pierce county; thence following said boundary northwesterly to a point opposite and north of the point of beginning on the shore line of Commencement Bay; thence south to the point of beginning—including sections twenty-four (24) and twenty-five (25) in township twenty-one (21) north, of range two (2) east, sections twenty-nine (29), thirty (30), thirty-one (31), thirty-two (32), thirty-three (33) and thirty-four (34) in township twenty-one (21) north, of range three (3) east, and sections four (4), five (5), six (6), eight (8), nine (9), and fractional sections three (3) and ten (10) in township twenty (20) north, of range three (3) east.

**§ 3. Collection of Road Taxes.**—SEC. 3. The corporate city limits aforesaid shall not be included within any road district, nor shall the county commissioners of Pierce county have any jurisdiction to assess, levy or collect any road property or road poll tax upon the property or inhabitants therein; and so much of any county public road as lies within said corporate limits shall be kept in repair by the council of said city. But the said council may by ordinance vacate any such road or parts thereof, and conform the same to opened and established streets. Said city shall be a separate and independent road district under the exclusive control of the said city corporation. All road taxes, whether road poll or road property taxes, levied, assessed or collected within the corporate limits of said city, shall belong to said city, and be expended therein

<sup>1</sup>Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 183.) In effect from date.

under the authority and direction of the city council thereof, upon county roads or parts thereof lying within said city limits and upon the streets, highways and alleys of said city. The city may appropriate from its general municipal fund money to aid in the opening of streets or work upon roads or bridges or the construction or repair of wharves, docks, piers or landing places within the city limits, but the said city shall not be entitled to receive from the county of Pierce any appropriation of county funds in aid of roads or bridges within the corporate limits of said city.

**§ 4. School Districts.**—SEC. 4. Said corporate limits shall be divided into two school districts, to be respectively known as West Tacoma school district and East Tacoma school district. All of the city limits included within the boundaries of the First ward of the city as herein defined, or as said boundaries may be changed and defined by the city council, shall constitute the West Tacoma school district. The remainder of the city shall be embraced in and be known as East Tacoma school district. Said school districts shall be separate and independent school districts, entitled to receive and enjoy their separate share of the common school fund of the county, and maintain schools therein, \* \* \*

#### CHAPTER II.

**§ 5. Government.**—SEC. 5. The power and authority given to the city government of Tacoma by this act shall be vested in a mayor and city council, together with such other officers as are in this act provided or may be created under its authority.

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**§ 6. Officers.**—SEC. 9. There shall be elected \* \* \* a city clerk,  
 \* \* \* city treasurer, street commissioner, city surveyor, \* \* \*  
 city assessor, \* \* \* who shall be officers of the municipal corporation. \* \* \*

#### CHAPTER V.

**§ 7. Powers of the Council.**—SEC. 33. The city council shall possess all the legislative powers granted by this act and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

#### CHAPTER VI.

**§ 8. Style of Ordinances.**—SEC. 42. The style of every ordinance shall be, "The city council of the city of Tacoma does ordain as follows."

**§ 9. Ordinances.**—SEC. 43. An ordinance shall not refer to more than one subject, which shall be clearly expressed in its title, and no ordinance or section thereof shall be revised or amended, unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or section so amended shall be repealed.

#### CHAPTER VII.

**§ 10.**—SEC. 48. The city government of Tacoma has power and authority—

**General Powers of Taxation.**—(1) To assess, levy and collect taxes for general municipal purposes not to exceed one-half of one per centum per annum upon all property, both real and personal, within the city, which is by law taxable for Territorial and county purposes, upon the valuation shown by the annual city assessment; and to levy and collect special taxes upon the same assessed valuation as hereinafter provided.

**Amount of Road Tax.**—(2) To assess, levy and collect in each year a road property tax of not less than one or more than five mills on every

dollar's worth of property within the city as returned by the annual city assessment, and a road poll tax of not more than four dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except paupers, idiotic and insane persons, and every active fireman who has been a member of any fire company in the Territory for a year preceding the assessment of taxes.

**Protection From Fire: Taxation for.**—(3) To make regulations for prevention of accidents by fire; to organize and establish a fire department, ordain rules for government of same, to provide fire engines and apparatus and a sufficient supply of water, and to levy and collect a special tax of not to exceed three mills for either of such purposes, or the expense thereof may be paid out of the general fund for the purpose.

**Removal of Prohibited Buildings: Collection of Expense.**—(4) To prohibit from time to time the erection within certain limits of the city any building or any addition to any building unless the outer walls thereof be made of brick and mortar, iron, or stone and mortar, and may provide for the removal of any building or an addition erected contrary to such prohibition, at the expense of the owners thereof. The expense of the work of such removal, if done by the city, shall be recoverable by personal action against such owner in the name of the city; and in case the owner of the building or addition so removed be the owner of the lot or parcel of land from which the same is so removed, such expense shall be a lien upon such lot or parcel of land, and may be collected as liens for street improvements upon property fronting thereon. The building or addition removed may be left at such place as may be convenient for the officer or person removing the same on behalf of the city, at the expense of the owner of such building or addition.

**Appropriation of Private Property for Streets, etc.—Conveyances.**—(5) To purchase or condemn, enter upon and take any lands, water works or gas works within the corporate limits for public use and for public squares, streets, wharves, docks, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to enclose, ornament and improve the same, and to erect necessary public buildings thereon. The city shall have entire control of all such buildings and works, and all lands purchased or condemned under the provisions of this subdivision, and all streets, highways, squares, wharves, docks and other public grounds or places within its limits, established or appropriated to public use by authority of law, or which have been or may be hereafter dedicated to public use by any person or persons; and has power, in case such lands and works are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same, and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city or the public existing prior to such conveyance. But when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

**Lighting Streets, etc.: Taxation for.**—(6) To provide for the lighting of streets and furnishing the city with gas or lights, and for the erection or construction of such works as may be necessary or convenient therefor; and has power to levy, for either of said objects, a special tax, not exceeding two mills; or the expense of lighting said city may be paid out of the general fund.

**Water Works: Maintenance—Appropriation of Private Property for.**—(7) To erect and maintain water works within or without the city, or to authorize the erection of the same for the purpose of furnishing the city with a sufficient supply of water; but no such works shall be erected by the city until a majority of the voters of the city, at a general or special election, assent thereto; and has power to and are hereby authorized to

condemn and appropriate so much private property that shall be necessary for the construction and operation of said gas works or water works within the city limits, the appropriation to be made as provided by chapter twelve of this charter.

**Term of Franchise for Water Works.**—(8) When the right to build and operate such works is granted the private individuals or incorporated companies by said city they may make such grant inure for a term of not more than fifty years, \* \* \*

**Opening, Improving, etc., Streets, etc.: Taxation for.**—(9) To provide for opening, widening, clearing, grading, graveling, bridging, paving, macadamizing, curbing, guttering, draining or other manner of improving or repairing of streets, highways and alleys, and for the construction and repairing of sidewalks upon said streets, highways and alleys. Said improvements shall not, however, be made at the expense of the owners of said lots or parcels of land fronting upon such street, highway or alley, or portion thereof; proposed to be improved in any of the manners herein recited, unless the resident owners of more than one-half of the property fronting upon the proposed improvement shall have petitioned the city council to order such improvements to be made, except as provided in section one hundred and twenty-five.

**Construction of Sewers, etc.**—(10) To provide for the \* \* \* construction of sewers, gutters or drains and cleaning and repairing the same.

**Removal of Certain Nuisances.**—(11) To cause any lot of land within its limits, on which water at any time becomes stagnant, to be drained or filled up, and to cause any vault within the city to be cleaned when necessary; and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council with reference to such matters, after such notice as in such ordinance or resolution may be prescribed, such owner shall be deemed thereby to have consented that the work necessary may be done by the city at the expense of the owner, and that such expense shall be a lien on the property and collected as liens for street improvements upon property fronting thereon are collected, and that the same, at the election of the council, shall be recoverable by personal action against such owner.

**Establishing Grade of Streets, etc.—Street Railways.**—(12) To provide for survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, change, extend, vacate and establish streets, highways and alleys and all public grounds, and to provide for the purchase or condemnation of such real estate as may be necessary for such purposes, and to authorize or prevent the laying down of railway tracks and street railways on all streets, highways, alleys and public places.

\* \* \* \* \*

**Special Taxes—Limitation of Indebtedness.**—(25) To levy and collect a special tax in addition to those authorized in subdivisions three and six of this section, not to exceed three mills in any year, upon all taxable property as shown by the annual city assessment, for any purpose authorized by this charter, including the payment of any existing indebtedness of the city of New Tacoma existing prior to 1st of January, 1884. Every ordinance providing for the levy of a special tax must specify the object for which levied and the estimated amount required to be raised. The indebtedness of the city must never exceed, in the aggregate, not to exceed the sum of thirty thousand dollars: *Provided, however,* That no assessment levied under the provisions of this section to pay any indebtedness of the city of New Tacoma prior to November 28, 1883, shall be assessed upon any property in the first ward of the city of Tacoma as now defined: *Provided further,* That all taxes for general, special and



municipal purposes, exclusive of assessments for street improvements as herein provided for, shall not exceed one per centum in any one year on the assessed valuation of the property of said city; and: *Provided further*, That an additional tax of five mills on the dollar may be levied by the city council when so authorized by the vote of the qualified electors of said city.

**May Adopt Proper Ordinances.**—(26) To enact proper ordinances for the government of the city and to carry into effect the powers given by this act, \* \* \*

**Incidental Powers.**—(28) \* \* \* and such other powers and privileges, not herein specifically enumerated, as are incident to municipal corporations of like character and degree, not inconsistent with laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act according to the true intent and meaning thereof.

CHAPTER IX.

**§ 11. Deputy Assessors.**—SEC. 66. The city assessor may appoint one or more persons having the qualifications of voters at municipal elections his deputy or deputies, subject to the approval of the council. \* \* \* Every deputy assessor shall have all the powers and may perform any of the duties of the assessor. \* \* \* The assessor and his deputies are each empowered to administer any oath authorized or required to be taken in connection with the duties of the office of assessor; \* \* \*

CHAPTER X.

**§ 12. Assessment Roll.**—SEC. 74. The city assessor shall annually, between the first Monday in February and the first Monday in April in each year, make out an assessment roll containing the names of all persons liable to taxation in the city, and descriptions of all property taxable by the city, and appraisement the value of said property. \* \* \*

**§ 13. Manner of Assessment.**—SEC. 76. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes, but the form of the assessment roll and the rule for ascertaining the ownership of property and in whose name it may be assessed, may be prescribed by ordinance.

**§ 14. Completion of Roll.**—SEC. 77. The city assessor must complete his assessment roll on or before the first Monday in April in each year, and file the same with the city clerk, \* \* \*

**§ 15. Board of Equalization.**—SEC. 78. The city council, or a committee of not less than three of its own number, appointed by the council at the regular meeting next preceding the first Monday in April in each year, as may be determined at said meeting, shall constitute a board for the equalization of taxes for the city, and shall meet for the equalization of assessments and the correction of the assessment roll on the first Monday in April in each year, and continue in session thereafter from day to day for two weeks, unless such business is sooner completed. A majority of said board, of whatever number said [board] may be composed, shall constitute a quorum.

**§ 16. Powers of Board.**—SEC. 79. Said board of equalization shall have the same powers as are given to boards of county commissioners in the Second Territorial revenue district by chapter CCXXII of the Code of Washington of 1881,<sup>2</sup> and shall proceed in like manner as such com-

<sup>2</sup> See No. 672, §§ 20 to 23, inclusive, *supra*.

missioners are directed to proceed in said chapter. The city clerk shall act as clerk of said board. The record of their proceedings shall be attested with the city seal. The city assessor, when required by the board, his deputy or deputies, shall attend the sessions of the board and answer and proceed as the county assessor or his deputies are required and authorized before the county commissioners under said chapter.

§ 17. **Levy and Amount of Tax.**—SEC. 80. At the first regular meeting of the city council in the month of May in each year, or as soon thereafter as practicable, the council shall by ordinance levy the annual tax for general municipal purposes, and the annual road property tax, and prescribe therein the time, not less than thirty or more than sixty days after said ordinance shall take effect, when said taxes shall be paid or draw interest thereafter at the rate of ten per cent. per annum.

§ 18. **Levy of Special Taxes.**—SEC. 81. No special municipal tax authorized to be levied by the city by section 48 of this act, shall be levied before the time of levying the annual tax for general municipal purposes. Any or all of said special taxes may be levied at the time of levying said annual municipal tax or at any time thereafter, not later than the first day of October in any year, and the time limited for the payment thereof must not be later than the last Saturday preceding the last Monday in November next after the time of the levy thereof.

§ 19. **Special Taxes: Collection of Delinquent.**—SEC. 82. Such special taxes when delinquent shall be collected in the same manner and by the like proceedings as herein provided for the collection of delinquent general taxes.

§ 20. **When Taxes Payable.**—SEC. 83. The council must provide by ordinance within what time all general or special, municipal, or road property taxes levied by the city may be paid to the treasurer; and all such taxes not paid to the treasurer within such time, except road poll taxes, shall draw interest at ten per cent. per annum until paid.

§ 21. **Warrant for Collection.**—SEC. 84. The city clerk shall, within such time as he may be ordered by the council, enter in the assessment roll the amounts of the taxes levied, in such form as the council may direct, and annex thereto a warrant directing the city treasurer to receive and collect the taxes named therein, and deliver the same to the city treasurer. The treasurer shall forthwith give notice by three weekly insertions in some newspaper published in the city, or by posting in two public places in each ward of the city, that the tax roll is in his hands, that the taxes are payable, and the date at which interest accrues if they remain unpaid.

§ 22. **Duties of Treasurer.**—SEC. 85. The city treasurer shall be the collector of all taxes levied by the city.

§ 23. **Correction of Omissions, etc.**—SEC. 86. The city assessor, clerk and treasurer are each and all empowered to list on any assessment roll and attach a proper valuation to property which may have escaped assessment, or add names thereon which may have been omitted of persons liable to poll tax, or add names which may have been omitted of persons liable to road poll tax to the road list, noting any such addition as a supplementary assessment.

§ 24. **No Demand Necessary.**—SEC. 87. No demand for taxes shall be necessary, but it shall be the duty of every person subject to taxation under this act, to attend in person or by agent or attorney at the office of the city treasurer and pay all taxes assessed against him or his property before the same becomes delinquent.

§ 25. **Lien of Tax.**—SEC. 88. All taxes assessed or levied under the provisions of this act have the effect of judgments against the persons who are or whose property is assessed. Every such tax is a lien upon all property assessed, and upon all property not exempt from taxation be-

longing to the person assessed, and takes precedence of all other liens and claims thereon whatever; and every such lien has the force and effect of an execution duly levied upon all such property. The judgment is not satisfied or the lien removed until all the taxes assessed against such person, or upon any property belonging to him are paid. Every tax assessed upon real property is a lien upon the property assessed, and upon all other real property belonging to the owner thereof; and every tax assessed upon improvements upon real property belonging to other than the owner of such real property, is a lien upon said land as well as the improvements. Every tax assessed against any person or upon his personal property, is a lien upon all his real property. The property both real and personal, not exempt from taxation, of any person owing a tax or taxes assessed against him or upon his property, real or personal, is liable for all taxes without regard to the nature of the tax or the particular property upon which the same is assessed and may be sold according to law to pay such taxes.

§ 26. **Duties of Treasurer.**—SEC. 89. The city treasurer shall collect all delinquent taxes when required by warrant or law.

§ 27. **When Penalty Attaches.**—SEC. 90. On the last Monday in November in each year a penalty of ten per cent. on the principal amounts of all general and special municipal taxes and road property taxes levied by the city shall accrue to such taxes, in addition to the interest thereon, and must then and thereafter be collected therewith.

§ 28. **Warrant for Collection.**—SEC. 91. On said last Monday in November the treasurer must return to the city clerk all delinquent tax rolls, general and special, then in his hands for collection of taxes thereon, distinguishing thereon the taxes paid and those unpaid. The city clerk shall within one week thereafter enter in the delinquent general tax roll against the descriptions of the property assessed for delinquent special taxes the amounts of all delinquent special taxes appearing on delinquent special tax rolls returned to him, together with the names of the persons against whom such delinquent special taxes are assessed, and forthwith after making such entries in said general tax roll issue and annex thereto a warrant directing the city treasurer to collect all the delinquent taxes entered upon said roll with interest, penalty and costs by sale of personal property of the persons owing the same, and deliver the same to the city treasurer.

§ 29. **Force and Effect of Warrant.**—SEC. 92. Such warrant for the purpose of collecting such taxes shall be deemed and taken as an execution against the personal property of the persons in said tax roll named and for the amount of all taxes therein charged against each, with interest, penalty, costs and expenses of sale, and the treasurer must at once proceed to collect the same by levy and sale of sufficient of the personal property of the several persons against whom the taxes are charged. He shall take into his possession by virtue of such warrant and tax roll so much of such personal property of the party against whom the taxes stand charged to be found in the city as will be sufficient to make the amount of the taxes with interest, penalty and costs. He shall give five days' notice of the time and place of sale by posting notice thereof in three public places in the city, one of which notices shall be posted on the door of the office of the city clerk. Such sale shall take place in front of the building in said city in which the city council assembles, and the same shall be made by auction. So much shall be sold as will be sufficient to pay the taxes with interest, penalty and costs, and the same fees, mileage and expenses shall be allowed the treasurer, and added to the taxes for which the property is sold, that are allowed sheriffs on similar proceedings under the Territorial revenue law. \* \* \*

§ 30. **Return of Roll.**—SEC. 93. On the first Monday of March in each year the treasurer shall make return of the delinquent tax roll, then in

his hands for collection, to the city clerk, and must make and subscribe thereon before the city clerk an affidavit as follows:

TERRITORY OF WASHINGTON, CITY OF TACOMA, SS.

I, ———, treasurer of the city of Tacoma, do solemnly swear that I have made due and diligent search to find sufficient personal property subject to levy belonging to each person whose taxes are now delinquent and unpaid on this tax roll, and that I have been unable to find any such property from which to make such taxes. So help me God.

**§ 31. Warrant for Sale of Real Estate.**—SEC. 94. The city clerk shall, within three days from said first Monday in March, issue and annex to said delinquent tax roll a warrant directing the city treasurer to sell all the real estate mentioned and described in said roll upon which taxes have been levied, whether in the name of a designated owner or in the name of an unknown owner, or a sufficient portion thereof to satisfy all delinquent and unpaid taxes on said roll, whether general or special municipal or road property taxes, or assessed upon real or personal property, or as poll taxes or road poll taxes due to the city from the owners of said real property, with interest, penalty and costs.

**§ 32. Time and Place of Sale.**—SEC. 95. On the third Monday in April in each year, at 10 o'clock A. M., at the front door of the building in which the city council holds its sessions, the city treasurer or his deputy must commence the sale by auction of real estate mentioned and described in said delinquent tax roll, in pursuance of the warrant issued and annexed thereto, as provided in the preceding section hereof.

**§ 33. Notice of Sale.**—SEC. 96. The city treasurer shall give notice of such sales by publishing for three consecutive weeks in some newspaper published in the city or by posting for the same length of time in two public places in each ward of the city and also on the door of the city clerk's office a list of the names of all persons appearing on said delinquent tax roll as owing or charged with any delinquent tax together with the total amount of all such delinquent taxes, including interest, penalty and costs to date of sale, owing by or charged against each, and descriptions of all the real property assessed to each person and liable to be sold for such delinquent taxes, and together with a notice that such real property, or so much thereof as may be necessary, will be sold at public auction to satisfy all said delinquent taxes with interest, penalty and costs owing by or charged against the owners thereof, or unknown owners, as the case may be, and specifying the time and place of sale.

**§ 34. Manner of Sale.**—SEC. 97. On the day fixed for sale, and on each subsequent day adjourned to, between the hours of 10 A. M. and 3 P. M., the treasurer must offer for sale the property advertised, commencing at the head of the list and continuing in alphabetical order with the names of the persons whose taxes are delinquent, and must sell to the persons who will take the least quantity of land offered, or in case an undivided interest is assessed, then the smallest portion of such interest, and pay all the delinquent taxes assessed against such person or upon any property belonging to him, with interest, penalty and costs: *Provided*, That no lot or parcel of land which shall have been aliened since the lien of the taxes sold for, attached thereto, shall be sold if there remain other land not aliened, liable for such taxes and sufficient on such treasurer's sale to satisfy said taxes with interest, penalty and costs.

**§ 35. In What Case City May Purchase.**—SEC. 98. The land assessed to each person whose taxes are delinquent on said published list must be twice offered for sale if not sold on the first offer, and if there be no bidder for any part or the whole of said land, of a sum sufficient to pay all taxes, interest, penalty and costs, including costs of advertising, for which said land is liable to be sold, the whole of the same shall be stricken off to the city for the whole amount of such taxes, interest, penalty and costs.

**§ 36. When a Portion Sold, How Measured Off.**—SEC. 99. When a person offers to take a less quantity than the whole of any lot or parcel

of land offered for sale by the treasurer for delinquent taxes, he must not make his selection from or near the center of any division or subdivision assessed, but must start from one of the descriptive points of said lot or parcel of land, and run his lines so that they will not divide any building situated on said land.

**§ 37. When Shall be Resold.**—SEC. 100. If any bidder to whom property is stricken off does not pay the taxes, interest, penalty and costs, including one dollar which is allowed the treasurer for the certificate of purchase, before 10 o'clock A. M., of the day following the day of sale, the property must then be resold, or if the tax sale is closed, be deemed to have been sold to the city, and a certificate of purchase shall be issued to the city therefor.

**§ 38. Penalty for Failure to Make Bid Good.**—SEC. 101. The bid of any person to whom any property shall have been stricken off, and who shall neglect to make payment therefor within the time limited in the preceding section, shall not be received on a resale of the property or for any other property at the delinquent tax sale of that year.

**§ 39. Certificate of Purchase.**—SEC. 102. The treasurer shall execute to the purchaser a certificate of purchase dated on the day of sale, describing the lots and parcels of land sold to him, stating that the same were sold for taxes due the city of Tacoma, the amount paid therefor, the year for which said taxes were levied, and when known, the name of the person assessed for said taxes. Such receipt shall be signed by the treasurer in his official capacity, and shall be *prima facie* evidence of the regularity of all prior proceedings.

**§ 40. Return of Roll.**—SEC. 103. At or before the first regular meeting of the city council in the month of May in each year, the treasurer must make return to the city clerk of said warrant and delinquent tax roll, with a statement of his doings thereon, showing all lots and parcels of land sold by him, to whom sold and the sum paid therefor, which tax roll shall remain on file in the office of the clerk.

**§ 41. Disposition of Property Purchased by City.**—SEC. 104. The city treasurer shall be the custodian of all certificates of purchase for lots or parcels of land sold to the city; and shall at any time within three years from the date of such certificate, and before redemption of the land therein described, sell and transfer such certificate to any person who will pay to him the amount for which the lot or parcel of land therein described was stricken off to the city, with the interest subsequently accrued thereon; and the treasurer may, if so authorized by the council, sell and transfer any such certificate in like manner after the expiration of said three years from the date of the certificate.

**§ 42. Purchaser's Lien for Taxes, etc.**—SEC. 105. The purchaser at tax sales acquires a lien on the lots and parcels of land sold for the amount paid by him at the sale as well as for all taxes and improvements, assessments and all costs and charges thereon, whether levied previously or subsequently to the sale, subsequently paid by him on such lots and parcels of land, and shall be entitled to interest thereon at the rate of twenty per cent. per annum from the date of such payment.

**§ 43. Redemption: Limitation and Manner of—Tax Deed.**—SEC. 106. All lots and parcels of land sold for taxes shall be subject to redemption by the former owner or his grantee or heir within three years from the date of the certificate of purchase on payment to the city treasurer, for the purchaser, of the amount the same was sold for, with twenty per cent. interest per annum, together with all taxes and improvement assessments and costs and charges thereon paid by the purchaser on such lots or parcels of land since such sale, with like interest thereon, and on such redemption being made the treasurer shall give to the redemptioner a certificate of redemption therefor, and pay over the amount received for



such redemption to the purchaser or his assigns. Should no redemption be made within the period of three years, the treasurer shall, on demand by the purchaser or his assigns and the surrender of the certificate, execute to him a deed for such lots and parcels of land therein described. Such deed shall be executed only for the lots and parcels of land named in the certificate, and after payment of all subsequent taxes and improvement assessments thereon. The deed shall be executed in the name of the city of Tacoma, shall recite in substance the matters contained in the certificate, and that no redemption has been made of the property within the time allowed by law. Such deed shall be signed and acknowledged by the city treasurer as such, and shall be recorded within six months from its date. The deed shall be *prima facie* evidence that the property was assessed as required by law, that it was equalized as required by law, that the taxes were not paid, that the property was sold as required by law, that it was not redeemed, and that the person executing the deed was the proper officer, and the deed shall be conclusive evidence of the regularity of all other proceedings from the assessment by the assessor, inclusive, up to the execution of the deed.

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**§ 44. Road Taxes: Execution Against Personal Property.**—SEC. 108. At any regular meeting of the city council after the return of said road poll tax list, the council may by ordinance levy the road poll tax for the year. Said road poll tax shall be due and payable as soon as said ordinance goes into effect. The city clerk shall forthwith, after such ordinance goes into effect, issue and annex to said road poll list a warrant directing the city treasurer to receive and collect such road poll tax, and deliver the same to the treasurer. The treasurer must add to said list the names of all persons found within the city liable to pay such road poll tax whose names have been omitted from said list, and may demand the amount of said poll tax from each person liable therefor. The warrant issued by the clerk for the collection of road poll taxes shall, after the expiration of five days after such poll tax becomes due, be deemed an execution against personal property, and shall have the force and effect thereof against any property not exempt from execution. \* \* \*

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**§ 45. Return of Such Execution.**—SEC. 110. On the first Monday of March in each year, the treasurer shall make return of said road poll tax list to the city clerk, distinguishing thereon the taxes or parts thereof paid and unpaid, and make affidavit thereon, before the city clerk, as follows:

TERRITORY OF WASHINGTON, CITY OF TACOMA, SS.

I, ———, treasurer of the city of Tacoma, do solemnly swear that I have made due and diligent search to find sufficient personal property subject to levy, belonging to each person whose road poll tax, or part thereof, is now delinquent and unpaid on this list, and that I have been unable to find any such property from which to make the amount due on such tax. So help me God.

**§ 46. Sale of Real Estate for Such Tax.**—SEC. 111. The city clerk, before he issues his warrant to sell real estate for the payment of delinquent taxes on the general municipal tax roll, shall enter in said general tax roll, against the names of all persons owing said road poll taxes, or any part thereof, and assessed upon any real estate on said tax roll, the amounts of road poll taxes owing from said persons, respectively, as shown by the delinquent road poll tax list returned to him, together with a penalty of twenty-five per cent. of said several amounts; and said delinquent road poll taxes and penalty shall be collected by the treasurer by sale of the real estate of said delinquents in like manner as other delinquent taxes on said roll.

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**§ 47. General Laws Shall Govern.**—SEC. 113. All laws of the Territory governing the assessment, equalization, levy and collection of Terri-

torial and county taxes, the sale of property for delinquent taxes, the redemption from such sales and the conveyance of property so sold shall apply to and govern the like matters and things respecting municipal taxes.

## CHAPTER XI.

**§ 48. Notice of Intention to Improve, etc.—Substance and Manner of.**—SEC. 114. Before ordering and (any) work done or improvements made, authorized by section 48 of this city charter, the city council shall pass a resolution declaring his<sup>s</sup> intention so to do, and shall thereafter cause a survey, diagram and estimate of the entire cost thereof, to be made by the city surveyor, and the said survey, diagram and estimate shall be filed in the office of the city clerk, for the inspection of all parties interested therein and the said city clerk shall forthwith cause a notice of such filing of such survey, diagram and estimate to be published weekly for two successive weeks, in some newspaper published in the city; such notice must contain a true copy of said resolution of intention, and must specify the street, highway or alley, or part thereof, proposed to be improved and the kinds of improvements proposed to be made, together with such estimated cost and expense thereof, and that if sufficient remonstrance be not made before the expiration of ten days after date of last publication, said improvement will be made at the expense of owners of the lots and the parcels of the land fronting upon the street, highway or alley, proposed to be improved within the limits of the improvement thereof, lengthwise of said street, highway or alley.

**§ 49 Effect of Remonstrance.**—SEC. 115. If within ten days from the final publication, the persons owning one-half or more of the lots or parcels of land fronting upon the street, highway or alley proposed to be improved within the limits aforesaid, shall file with the city clerk a remonstrance against said improvement, grade or alteration, the same shall not be made at the expense of the owners of the lots or parcels of land fronting upon such street, highway or alley, as aforesaid, unless the city council shall deem such work or improvement necessary, but no such work shall be done or improvement be made unless upon a unanimous vote of all councilmen then present.

**§ 50. Effect of Failure to Remonstrate.**—SEC. 116. If no such remonstrance be made and filed as provided in the last section, and the owners of the lots and parcels of land fronting upon such street, highway or alley proposed to be improved within the limits aforesaid, shall be deemed to have consented to the making of said improvement, or of [if] such remonstrance has been made and filed and the said city council nevertheless order such work to be done, or said improvement to be made as provided in section 115, the council at its earliest convenience thereafter, and within six months from the publication of such notice, may establish the proposed grade or make the proposed improvement at the cost and expense of the owners of the lots and parcels of land fronting upon the street, highway or alley proposed to be improved within the limits aforesaid, either by or through the street commissioner or other officer designated by the council, or by contract let by the council to any person: *Provided*, That no contract shall be made providing for the payment to the contractor for such improvement of any greater amount than the estimated cost and expense thereof published as aforesaid to complete some general system of improvement.

**§ 51. Assessment of Abutting Property: Lien and Collection of.**—SEC. 117. Such cost and expense shall be assessed upon said lots and parcels of land in the following manner: The cost and expense of the work done and materials furnished in making the entire improvement shall be assessed upon the lots and parcels of land fronting upon the improved

street, highway or alley within the limits of the improvement thereof lengthwise of such street, highway or alley, ratable according to the valuation of each of said lots or parcels of land, exclusive of the improvements thereon, as determined by the last annual assessment thereof for general and municipal taxation made previous to such assessment of said cost and expense thereon: *Provided*, That until the annual city assessment for the year 1886 is made and equalized, the valuation of such lots and parcels of land for the purpose of assessing such cost and expense thereon, shall be determined by the annual assessment of such lots and parcels of land for Pierce county for the year 1885, and said street commissioner shall also take in consideration and make proper allowance for any and all work done by the owners of said several lots, portions of lots, pieces, parcels and subdivisions of land in front of their respective lots: *Provided further*, That no assessment shall be levied on any property which, together with all assessments for street improvements that may have been levied upon the same property during the preceding year, will amount to a sum greater than fifty per cent. of the value at which said property was assessed upon the last preceding assessment roll of the city.

§ 52. **Assessment List.**—SEC. 118. Within five days after the receipt by him of said survey, diagram and estimates, unless further time be granted by said city council therefor, the said street commissioner shall make out and complete an assessment list which shall show and exhibit in separate columns—(1) The name of the owner of each separate lot, piece, parcel or subdivision of land, separately assessed, if known to him, and if the name of the person be unknown to him the word "unknown" shall be written opposite the number of such subdivision of land; (2) the assessment number of each subdivision of land separately assessed; (3) a brief description by lot and block or otherwise of each such subdivision of land which, in connection with the diagram hereinbefore and hereinafter mentioned, shall be sufficient for the identification and location of each such subdivisions of land, and also the assessed value of each such subdivision of land according to the assessment roll of the preceding year; (4) the estimated benefits to each of such subdivision of land; (5) the amount assessed separately to each such subdivision; and (6) a list of separate lots, parcels or subdivisions of land, if any, which are not benefited by said work or improvement within said assessment district. To the assessment list thus completed said street commissioner shall attach said diagram showing the relative location of each of said subdivisions of land to the work proposed to be done, each of which said subdivisions of land shall by him be numbered on said diagram to correspond, each respectively, with its assessment number as shown on said assessment list, and said assessment list and said diagram thus attached shall constitute and be known as the "assessment roll." Said assessment roll, when completed, shall be by said street commissioner filed with the city clerk.

§ 53. **Notice of Assessment.**—SEC. 119. Upon receiving said assessment roll, said city clerk shall forthwith give notice by publication, for at least five days in a newspaper published in the city, that said assessment roll is on file in his office, the date of the filing of the same, and that the same is open for public inspection, and said notice shall contain a time within which the city council will meet to hear appeals of the parties aggrieved by such assessment.

§ 54. **Appeal From Assessment.**—SEC. 120. The owner of land in said assessment district, whether named or not in said assessment roll may, within ten days after the first publication of said notice provided for in the last section, appeal to said city council from said assessment or assessment roll, said appeal to be in writing and briefly stating the objections to said assessment or assessment roll, and filing the same with the clerk of said city council.

**§ 55. Hearing of Appeal—Effect of Judgment.**—SEC. 121. At the time appointed by the council for hearing appeals from said assessment the city council shall hear and decide upon all objections which may be presented by any party interested, to the regularity of the proceedings in making said improvement or in levying said assessment, or to the correctness of the amount of said assessment, or of the amount levied upon any particular lot or parcel of land, and if the proceedings are found by them to have been regular they shall correct any errors which may be found in the assessment, and shall pass an order approving and confirming said proceedings and said assessment as so corrected by them, and their decision and order shall be a final determination of the regularity, validity and correctness of said assessment, and of the amount thereof levied upon each lot or parcel of land, and shall bar all persons appearing and objecting, or failing to appear, from any further recourse in law.

**§ 56. When Assessments Payable.**—SEC. 122. The council must provide in said order approving and confirming such assessment within what time, not less than thirty nor more than sixty days after the time appointed for hearing appeals therefrom, the same may be paid to the city treasurer; and all such assessments not paid to the treasurer within such time shall thereafter draw interest at the rate of ten per cent. per annum until paid.

**§ 57. Bids to be Taken.**—SEC. 123. Before entering into any contract with a contractor for such improvement the council shall invite sealed bids for such improvement by publishing notice, requesting such bids, for ten days in some newspaper published in the city. All bids shall be filed with the city clerk within such time as may be specified in the notice, and none others shall be considered by the council. Such bids shall not be opened except at a meeting of the council. The council may renew such invitation for bids from time to time, by publishing notice as aforesaid, and either before or after the opening of any bids on file. The council may reject any or all of such bids, and may adopt any one of them which in their discretion they may deem best, whether the same be the lowest or not.

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**§ 58. Lien of Assessments.**—SEC. 125. All such assessments shall be liens upon the property assessed, and as such liens shall relate back to and take effect as of the time of the first publication of the notice of the proposed improvement provided for in section one hundred and fifteen (115) hereof.

**§ 59. Duties of Treasurer.**—SEC. 126. The city treasurer shall be the collector of all such assessment for improvements both before and after delinquency.

**§ 60. No Demand Necessary.**—SEC. 127. No demand shall be necessary for any such assessment, but it shall be the duty of every person whose property is assessed for improvements, as herein provided, to attend in person or by agent or attorney at the office of the city treasurer and pay all such assessments levied upon such property before the same become delinquent.

**§ 61. Warrant for Collection.**—SEC. 128. The city clerk shall, within five days after the confirmation of any such assessment for improvements by the council, certify and annex to the assessment roll a copy of the order of confirmation, and issue and annex to said roll a warrant directing the city treasurer to receive and collect the assessments named therein, and deliver the same to the city treasurer. The treasurer shall forthwith give notice by three weekly insertions in some newspaper published in the city, that such assessment roll is in his hands, that the assessments are payable, and the date at which interest accrues if they remain unpaid.

§ 62. **Return of Roll—Order for Sale.**—SEC. 129. Within five days from the expiration of the time limited for the payment of any such assessments to the treasurer, the treasurer must return the improvement assessment roll to the city clerk, distinguishing thereon the assessments paid, and those unpaid. The clerk shall thereupon issue and annex thereto a warrant directing the city treasurer to sell all the lots and parcels of land described in said roll, and upon which assessments are levied, whether in the name of a designated owner, or in the name of an unknown owner, to satisfy all delinquent and unpaid assessments upon said roll, with interest, penalty and costs. On the day of the commencement of the sale of said real property, in pursuance of such warrant, a penalty of ten per cent. on the principal amount of every unpaid assessment on said improvement assessment roll shall accrue to such assessment in addition to the interest thereon and must then and thereafter be collected therewith.

§ 63. **Force and Effect of Warrant.**—SEC. 130. Such warrant shall, for the purpose of making sale of said real property on which assessments are delinquent and unpaid, be deemed and taken as an execution against said real property for the amounts of said assessments, with interest, penalty and costs, and the treasurer or his deputy shall, within sixty days from the receipt thereof by him, commence the sale of said real property, and continue such sale from day to day, thereafter, until all the lots and parcels of land, described in said assessment roll, on which any such assessment is delinquent and unpaid, are sold. Such sales shall take place at the front door of the building in which the city council holds its sessions. The treasurer shall give notice of such sales by publishing a notice thereof once a week for three consecutive weeks in some newspaper published in the city. Such notice shall contain a list of all lots and parcels of land upon which such assessments are delinquent, with the amount of the assessment, interest, penalty and costs to date of sale, including costs of advertising, due upon each of such lots or parcels of land, together with the names of the owners thereof, or the words "unknown owner" as the same may appear on said improvement assessment roll, and shall specify the time and place of sale, and that the several lots or parcels of land therein described will be sold to satisfy the assessment, interest, penalty and costs due upon each.

§ 64. **Time and Manner of Sale.**—SEC. 131. All such sales shall be made between the hours of 10 A. M. and 3 P. M., each lot or parcel of land shall be sold separately for the delinquent and unpaid assessment thereon, with interest, penalty and costs, and shall be sold in the order in which the same appears on the improvement assessment roll, commencing at the head thereof. If there be no bidder for any lot or parcel of land of a sum sufficient to pay the delinquent assessment thereon, with the interest, penalty and costs, the treasurer shall strike the same off to the city for the whole amount which he is required to collect by such sale thereof.

§ 65. **To be Sold to Highest Bidder.**—SEC. 132. All lots and parcels of land sold for delinquent improvement assessments shall be sold to the highest bidder; \* \* \*

§ 66. **When Shall be Resold.**—SEC. 133. If any bidder to whom any lot or parcel of land is stricken off does not pay the assessment, interest, penalty and costs, including one dollar which is allowed the treasurer for the certificate of purchase, before 10 o'clock A. M., of the day following the day of sale, such lot or parcel of land must then be resold, or if the assessment sale is closed, be deemed to have been sold to the city, and a certificate of purchase shall be issued to the city therefor.

§ 67. **Certificate of Purchase.**—SEC. 134. The treasurer shall execute to the purchaser a certificate of purchase for each lot or parcel of land sold to him, dated on the day of sale, describing the lot or parcel of land sold for a delinquent improvement assessment levied by the city of



Tacoma, the amount paid therefor, the date of the levy of said assessment, and when known the name of the person assessed for the improvement. Such certificate shall be signed by the treasurer in his official capacity, and shall be *prima facie* evidence of the regularity of all prior proceedings.

§ 68. **Disposition of Property Purchased by City.**—SEC. 135. The city treasurer shall be the custodian of all certificates of purchase for lots or parcels of land sold to the city, and shall, at any time within three years from the date of any such certificate, and before the redemption of the lot or parcel of land therein described, sell and transfer any such certificate to any person who will pay to him the amount for which the lot or parcel of land therein described was stricken off to the city, with the interest subsequently accrued thereon; and the treasurer may, if so authorized by the council, sell and transfer any such certificate in like manner, after the expiration of said three years from the date of the certificate.

§ 69. **Return of Roll.**—SEC. 136. Within ten days after the completion of the sale of all the lots and parcels of land described in such improvement assessment roll, and authorized to be sold as aforesaid, the treasurer must make return to the city clerk of said assessment roll, with a statement of his doings thereon, showing all lots and parcels of land sold by him, to whom sold and the sum paid therefor.

§ 70. **Purchaser's Lien for Taxes, etc.**—SEC. 137. The purchaser at improvement assessment sales acquires a lien on the lot or parcel of land sold for the amount paid by him at such sale, as well as for all taxes and improvement assessments, and all costs and charges thereon, whether levied previously or subsequently to such sale, subsequently paid by him on the lot or parcel of land, and shall be entitled to interest thereon at the rate of twenty per cent. per annum from the date of such payment.

§ 71. **Redemption: Limitation and Manner of.**—SEC. 138. Every lot and parcel of land sold for an improvement assessment shall be subject to redemption by the former owner or his grantee or heir, within three years from the date of the certificate of purchase, on payment to the city treasurer for the purchaser of the amount the same was sold for with twenty per cent. interest per annum, together with all taxes and improvement assessments and costs and charges thereon, paid by the purchaser on such lot or parcel of land since such sale, with like interest thereon. And on such redemption being made, the treasurer shall give to the redemptioner a certificate of redemption therefor and pay over the amount received from such redemptioner to the purchaser or his assigns. Should no redemption be made within the period of three years the treasurer shall on demand by the purchaser or his assigns and the surrender of the certificate, execute to him a deed for the lot or parcel of land therein described. Such deed shall be executed only for the lot or parcel of land named in the certificate, and after payment of all subsequent taxes and improvement assessments thereon. The deed shall be executed in the name of the city of Tacoma, shall recite in substance the matter contained in the certificate, and that no redemption has been made of the property within the time allowed by law. Such deed shall be signed and acknowledged by the city treasurer as such and shall be recorded within six months from its date. The deed shall be *prima facie* evidence that the property was assessed as required by law, that the improvement assessment was not paid, that the property was sold as required by law, that it was not redeemed, and that the person executing the deed was the proper officer; and the deed shall be conclusive evidence of the regularity of all other proceedings from the assessment by the assessor, inclusive, up to the execution of the deed.

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§ 72. **Manner of Satisfaction of Assessment.**—SEC. 141. Whenever, before sale of any lot or parcel of land, the amount of any assessment for improvements thereon, with all interest, penalty and cost accrued thereon, shall be paid to the treasurer, he shall thereupon enter the same satisfied, with the date of satisfaction thereof, on the record of such assessment roll in office; and whenever, after sale of any lot or parcel of land for any such assessment, the same shall be redeemed, he shall thereupon enter the same redeemed, with the date of such redemption, on said record. Such entries shall be made on the margin of the record, opposite the description of such lot or parcel of land.

§ 73. **Effect of Lien for Removal of Prohibited Structures.**—SEC. 142. Whenever the expense of any work done by the city in pursuance of subdivision four (4) of section forty-eight (48) of this act is a lien upon the lot or parcel of land referred to in such subdivision as therein provided, such lien shall attach to such lot or parcel of land at the time of the commencement of the erection of the prohibited building or addition, and continue in force until such expense is paid, and shall have the like force and effect as the lien of an assessment for street improvements, as herein provided.

§ 74. **Lien for Improving Streets, etc.**—SEC. 143. Whenever any work is done by the city, under the provisions of subdivision (9) of section forty-eight (48) of this act, the expense thereof, including cost of the material used therein, shall be a lien upon the lot or parcel of land upon which the work is done from the time of giving the notice to the owner to do such work provided for in such subdivision, until the same is paid, of like force and effect as the lien of an assessment for street improvements, as herein provided.

§ 75. **Enforcement of Lien.**—SEC. 144. The expense referred to in either of the two next preceding sections and constituting a lien as therein mentioned, may be collected by the levy of an assessment therefor on the lot or parcel of land liable therefor, and by sale thereon in the same manner and with like effect as though the same were a lien for street improvements on such lot or parcel of land; or until such assessment be levied such expense may be recovered by the city by suit in any court having jurisdiction in matters of debt or contract to the amount of such expense and costs of suit. The amount of such expense shall draw interest at ten per cent. per annum from the time of the completion of the work until paid, and in case of sale on a delinquent assessment therefor, a penalty of ten per cent. on the principal amount of such expense shall accrue and be collected thereon.

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§ 76. **Manner of Sale, Redemption and Conveyance.**—SEC. 146. All of the provisions of chapter X of this act, governing the sale of property for delinquent taxes, the redemption from such sales and the conveyance of property so sold, and not inapplicable to delinquent improvement assessments, or inconsistent with the provisions of this chapter, shall apply to and govern the sale of property for delinquent improvement assessments, the redemption from such sales and they [the] conveyance of property so sold.

#### CHAPTER XII.

§ 77. **Appraisement and Settlement of Damages for Changing Grade of Street, etc.**—SEC. 147. When the grade of any street, highway or alley shall have been established by authority of the city, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterward change the established grade in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage; and when the parties in-

interested are unable to agree with the city council as to the amount so to be paid, the same shall be appraised by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two so appointed, or in case of their disagreement, by the city council. Said appraisers shall be sworn to faithfully execute their duties according to the best of their ability; they shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment; they shall assess the damage sustained over and above the additional value of the property by reason of the change or improvement; they shall sign their report and deliver the same to the clerk of the district court, holding terms at the county seat of Pierce county, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final, and the city shall pay the amount so assessed, and the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient the clerk of said district court shall, upon the filing of a written precipe therefor by the city or any person aggrieved, within said twenty days, enter the case upon the trial docket for the next term; the party claiming damages shall be the plaintiff, and the city shall be the defendant. The usual pleadings in a civil action may be filed, or such special pleadings as the court shall allow, and the issue thus formed shall be tried as other civil actions; the costs to be taxed against the city when the judgment is for a larger amount than was awarded by the appraisers, or the cause has been tried at the instance of the city for the purpose of reducing the amount of damages, and the damages are not so reduced; otherwise the costs shall be taxed against the parties claiming damages.

**§ 78. Notice of Intention to Appropriate Private Property.—**SEC. 148. Whenever, in the judgment of the city council, it shall become necessary or expedient to condemn any lands, tenements, hereditaments or premises within the corporate limits, for any of the purposes specified in section 48, the council shall by resolution declare its intent to condemn the same, and the purpose of such condemnation, setting forth in such resolution a pertinent general description of the property designed to be condemned.

**§ 79. Appraisement of Damages for Such Appropriation.—**SEC. 149. Thereafter, and within thirty days from the adoption of such resolution, the council may appoint three disinterested persons, residents of and freeholders in the city of Tacoma, no kin to any owner or person interested in any property to be appropriated, possessing the qualifications of jurors of the district court holden at the county seat of the county of Pierce, to view the property proposed to be condemned as aforesaid, and make an assessment of damages and benefits. When such viewers are appointed the council shall assign a day and place for them to meet, which place shall be at the office of some justice of the peace of Pierce county, having an office in said city; and a notice of the appointment of such viewers, with their names and the time and place appointed for them to meet, specifying with convenient certainty the boundaries and description of the private property proposed to be appropriated, and the purpose for which the same is designed to be appropriated, shall be served personally upon all resident owners of such lands, tenements and hereditaments, if such resident owners are found within the county, and in case they cannot be found and in the case of non-resident owners, by publication for three consecutive weeks in some newspaper published in said city. The liability to pay a tax to satisfy any such assessment of damages (except an assessment upon property benefited), shall not disqualify any person from serving as such viewer.

**§ 80. Viewers: Duties of.—**SEC. 150. The city clerk shall immediately, and at least five days before the time assigned for such meeting,

cause such viewers to be notified of their appointment and of the time and place of such meeting, and such viewers shall meet at the time and place designated, and take an oath before said justice of the peace, to the effect that they are twenty-one years of age, citizens and householders of Pierce county, Washington Territory, that they are not related to any of the persons whose property is sought to be appropriated, and that if upon viewing the property not to be appropriated, but to which especial and peculiar benefits will accrue by reason of such appropriation, said viewers shall be found to be related to owner thereof, either by affinity or consanguinity, the same shall not affect his appraisement, and that they are qualified jurors; that they will faithfully discharge the duties assigned by them, and shall then or on any other day to which they may adjourn, not exceeding one week thereafter, proceed to view the property proposed to be condemned, and having viewed the same shall proceed to make a just and equitable estimate and assessment of the amount of the loss and damage, if any, over and above the benefit and advantage which are especial and peculiar to said owner, but benefits which are general to the public shall not be taken into consideration by said viewers, and said viewers shall also make an estimate of the benefits and advantages which will be special and peculiar to the owners of the lands, tenements and hereditaments not proposed to be condemned, but which, in the opinion of said viewers will be benefited by such condemnation and appropriation, and within a reasonable time after completing said appraisements the said viewers shall make two written reports of their doings and appraisements in the case of the property sought to be condemned, one of which they will file with the said justice of the peace, and the other with the clerk of said city and shall make and file with the said clerk a report of the assessment of benefits and advantages which they find to be special and peculiar to the owners of lands, tenements and hereditaments not proposed to be condemned, but which, in the opinion of such viewers, will be benefited by such appropriations, all of which reports shall be verified by said viewers before said justice of the peace, and shall be signed by a majority of their number. The city clerk shall, within two days after the expiration of the twenty days named in section 155, and if said council has not reconsidered their said resolutions to condemn said lands, file with the city treasurer said report and said city treasurer shall proceed to collect said assessment, so provided in chapter XI and section 147 of this chapter, for the collection of taxes and enforcements of liens for improvements.

**§ 81. Judgment: Manner of Taking and Enforcement.—SEC. 151.** Said justice of the peace shall, within five days after the filing of the report of said viewers, make and certify to the clerk of the district court of said Pierce county a transcript of the proceedings had before him, and shall attach thereto the report of said viewers, together with the notices and returns thereon, as required by section 149. The clerk of said district shall thereupon put the case upon the trial docket of the next term of said court, the city to be the plaintiff and the other party defendant, and thereupon, if no objections are made within twenty days by either party, the same shall stand confirmed and judgment entered accordingly. But either or both parties may elect to have said cause tried, and the parties then shall be at liberty to file the ordinary pleadings in a civil action, or such special pleadings as the court may order, and the issues thus formed shall be tried as in other civil cases. The costs to be taxed against the city only when the verdict is for a larger amount than was awarded by the viewers, or the cause has been tried at the instance of said city for the purpose of reducing the amount of damages, and the damages are not so reduced; otherwise the costs shall be taxed against the owners of the land. The fact that one called as a juror on any such trial is a taxpayer in the city of Tacoma shall not disqualify him from sitting as such juror.

**§ 82. When City Entitled to Possession.**—SEC. 152. Upon payment to the clerk of said district court, for the use of such owner or owners, of the amount assessed by said viewers, said city shall be entitled to and have the right, notwithstanding the objections or appeal of said owner or owners, to immediately enter upon and take possession of said land, tenements and hereditaments and appropriate them to the uses for which they were condemned, subject, however, to the payment of such further damages as the district court of said county may order paid, as provided in section 151. But nothing herein shall be construed to prevent said city from appropriating said lands, tenements and hereditaments for its uses pending action in the district court with regard to said damages; and for the purpose of preliminary survey and laying out such works, said city shall have the right to enter upon said lands at any time.

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**§ 83. Right of Appeal.**—SEC. 154. Either party may appeal to the supreme court of the Territory, as in other cases: *Provided*, That if the owner or owners of the land accepts the sum awarded by the viewers, he or they shall thereby waive trial in the district court, and appeal to the supreme court, and final judgment by default may be rendered in the district court, as in other cases: *Provided, however*, It shall be lawful for said city council, by such person or persons as they shall direct, at any time before the final rendering of judgment, to agree with any of the parties interested as to the amount they shall receive for damages or pay for benefits.

**§ 84. Resolution of Abandonment: Effect of.**—SEC. 155. Said city shall have the right at any time within twenty days from filing the report with the justice of the peace of the assessment of damages to reconsider its resolution to condemn and appropriate any of said lands, tenements and hereditaments, in which case the city clerk shall notify by publication for three consecutive weeks, in some weekly newspaper published in said city, the resolution of abandonment: *Provided, however*, That in such case the city shall pay all costs accrued up to the time of said reconsideration and all matters then pending with reference thereto shall cease, but no owner of property condemned shall be entitled to any damages or compensation by reason of any act done by said city in condemning such property, except actual damages sustained by the destruction of fences, buildings or other injury to his property.

**§ 85. Powers of City Over Property Appropriated.**—SEC. 156. At the time of the filing of said report by the justice with the clerk of said district court, or thereafter upon paying to the persons respectively entitled thereto, the amounts first assessed and reported by the viewers, as the amounts to be paid to the owners or lessees of persons entitled to or interested in the property designated to be appropriated, or upon depositing said amounts with said clerk of said court for the use of such persons, respectively, or upon paying to such persons, or depositing with the clerk, as aforesaid, the amounts assessed and reported by viewers on a revisal and correction of the report, or assessed by a jury, as hereinbefore provided, as the amounts to be paid to such persons respectively, all the lands, tenements, hereditaments and premises, proposed to be condemned as aforesaid, shall be deemed so condemned, and the city shall become seized thereof, and the city may thereupon, by such person as the city council shall order, either immediately or at any time or times thereafter, take possession of the same, or any part or parts thereof, without any suit or proceeding at law for that purpose, and remove all buildings and other impediments as the council shall direct. But the city shall nevertheless in case such persons or any of them entitled as aforesaid, do not accept the aforesaid amounts assessed to them, respectively, be subject to the liability to pay to such persons respectively the amounts which may be finally assessed and confirmed to them for the taking of said lands or premises as in this act provided.



§ 86. **Waiver of Appeal.**—SEC. 157. If after any such deposit be made with the clerk of said court the amount of loss or damage assessed as the sum to be paid to any party interested in said condemned property shall be decreased by viewers on a revisal or correction of the reports, or by the verdict of a jury, the difference between the amount of such loss and damage as so decreased, and the amount so deposited with the clerk for such party, shall not thereafter be paid by the clerk to such party, but shall be paid to the city. Any party accepting the sum assessed to him for damages by the viewers, shall be deemed thereby to conclusively waive a hearing or trial of the question of the amount of loss or damage sustained by him, in the district court with or without jury, or before the judge thereof; and any party accepting such sum or the sum which may be assessed to him for damages by a jury in the district court, shall be deemed thereby conclusively to waive an appeal of the question of the amount of such loss or damage to the supreme court.

§ 87. **Appropriation in Other Cases.**—SEC. 158. In all other cases where private property is condemned or taken for public use by authority of this act, and in the cases mentioned and referred to in section one hundred and fifty-nine (149) <sup>4</sup> of this act, if the city council so elect and do not appoint viewers as provided in section one hundred and sixty (160) [150] thereof, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be determined in the manner provided in this charter.

§ 88. **Council May Regulate Manner of Appropriation.**—SEC. 159. The council may provide by ordinance any regulations as to the manner of condemning and appropriating private property for the use of the city not in conflict with this act, and may provide by ordinance anything convenient and necessary for the effectual carrying out of the spirit and intent of this chapter and of section 48 of this act.

#### CHAPTER XIII.

\* \* \* \* \*

§ 89. **Regulation and Control of Additions to the City.**—SEC. 161. The city may regulate and provide as to the manner in which all additions to the city shall be subdivided into lots, blocks, streets and alleys, and the width, distance apart and direction of each street and alley, and the manner in which a plat shall be made thereof, and when filed and the kind of monuments in all parts of the city, and place and manner of erection and maintenance thereof, to prevent mistakes and confusion of boundaries; and may cause an official map of said city to be made and kept for public inspection, which plat certified by the city surveyor shall be *prima facie* evidence that the lines as they appear are correct; and all surveys made by the city surveyor at the instance and expense of the city, or private parties, shall be official surveys, and a minute thereof shall be kept by the city surveyor as a part of his official records and shall be *prima facie* evidence of their own correctness; and the city has power to enforce this section and to prevent the sale of any real property not subdivided as aforesaid, and a plat whereof is not made and filed as herein provided, and to compel the establishment and maintenance of such monuments, and to pass any and all ordinances necessary or expedient for carrying any of the provisions of this section into effect, and to fine or imprison or both for a violation thereof; and when the boundary or existence of any public street, alley, square or easement is in doubt, and the land claimed by a private party, the city may file a bill in equity to determine the right thereto.

\* \* \* \* \*

<sup>4</sup> (159).

§ 90. **Actions Concerning Taxes, etc.—Discretion of Council.**—SEC. 163. In any action, suit or proceedings in any court concerning a charge or lien upon property or levy of taxes or assessments authorized by this act, or the collection of any such taxes or assessments, or proceedings thereon, such charge, levy, consequent proceedings and all proceedings connected therewith, shall be presumed to be regular and duly done or taken until the contrary is shown.

§ 91. **Petition for Improvement.**—SEC. 164. No street, highway or alley shall be vacated except on petition to the city council signed by a majority of the resident owners of real estate within the block or blocks in or through which such street, highway or alley is proposed to be vacated. Said petition shall set forth the particular circumstances and the reasons for granting the same, and contain a certain description of the vacation applied for. The petition shall be filed with the city clerk at least twenty days previous to the meeting of the council, at which said petition shall be heard and determined; and notice of the filing and time fixed for hearing by the council of said petition, embodying briefly an intelligent statement of the matters therein contained, shall be given for the same space of time, by written or printed notices posted in three of the most public places in the city, and three weekly insertions in some newspaper published in the city. Such notice shall be posted or published as aforesaid at the expense of the petitioners. If any street or alley be vacated the land so vacated shall be attached to the lots or ground bordering on such street or alley, and all right or title thereto shall rest in the person or persons owning the property on each side thereof, in equal proportions. When such vacation is of part of a street only, or where lots border upon one side of such street only, such vacated land shall rest<sup>6</sup> in the owner or owners of such lots bordering upon the vacated portion.

\* \* \* \* \*

#### CHAPTER XIV.

§ 92. **Repealing Clause, etc.**—SEC. 167. From and after the time this act shall take effect, the act entitled "An act to consolidate the cities of Tacoma and New Tacoma under the name of Tacoma," approved November 28, 1883,<sup>6</sup> shall be and the same hereby is repealed, but such repeal shall not revive any act repealed by said act hereby repealed: *Provided, also,* That all acts lawfully done by the city of Tacoma incorporated by the act entitled "An act to incorporate the city of Tacoma," approved November 12, 1875,<sup>7</sup> or by the city of New Tacoma, incorporated by the act entitled "An act to confer a city government upon New Tacoma," approved November 5, 1881,<sup>8</sup> or by the city of Tacoma incorporated by said act hereby repealed, or by the officers of any of said city corporations, pursuant to their said respective charters, or any ordinance of said cities, respectively, and any and all ordinances passed by said city corporations and in force or unrepealed when this act takes effect and not inconsistent with this act or the laws of Washington Territory, shall be and remain in full force with like effect as though the same were or had been passed or done by the city of Tacoma hereby established, until repealed or rescinded. All warrants or certificates of indebtedness, all appropriations of money to certain specific funds, all taxes remaining unpaid, all claims, dues or demands in favor of, or due to any of said municipal corporations, all franchises, all contracts and liabilities lawfully granted, made or incurred by any of said corporations, all rights of every nature and kind, invested or contingent, created or recognized by any of said

<sup>6</sup> Vest.

<sup>6</sup> See No. 789, *supra*.

<sup>7</sup> See No. 787, *supra*.

<sup>8</sup> See No. 788, *supra*.

charters or the ordinances, resolutions or acts of any of said cities, and not inconsistent with this act or the laws of the Territory, shall not by this act be lost, impaired or discharged, but shall be continued and shall be and remain in full force and effect. All property of every name and nature and rights, privileges and franchises belonging to the said city of Tacoma, incorporated November 12, 1875, or the said city of New Tacoma or the said city of Tacoma, incorporated November 28, 1883, shall belong to and are hereby vested in the city of Tacoma hereby established: *And provided, also*, That all officers of the city of Tacoma incorporated by said act hereby repealed, except the collector, in office when this act goes into effect, shall be the like officers of the city of Tacoma under this charter, and shall continue to hold their respective offices, and shall exercise the powers and perform the duties prescribed for such officers, respectively, by this charter, until the expiration of the terms for which they were elected or appointed under said repealed charter and until their successors are elected and qualified: *Provided further*, That the county treasurer of Pierce county shall cease to be *ex-officio* treasurer of this city upon the election and qualification of the city treasurer authorized by this charter to be elected at the annual municipal election thereunder in the year 1886. \* \* \* It being the true intent and meaning of this act to continue the existence of the same city as that corporated by said act, November 28, 1883, hereby repealed, but with enlarged boundaries and with powers and manner of government as herein prescribed.

§ 93. **Assessments Under Former Charters.**—SEC. 168. Claims due to the said late city of New Tacoma, or to the city of Tacoma, incorporated November 28, 1883, at the time this act goes into effect, for improvements charged to the owners of the property fronting upon the improvement made, may be enforced and collected in accordance with the provisions of the said act of November 28, 1883.

§ 94. **Collection of Taxes Levied Under Act of 1875.**—SEC. 169. All municipal taxes heretofore levied by the late city of New Tacoma and remaining unpaid when this charter shall go into effect, shall be collected as provided in the charter of said New Tacoma, or the ordinances passed levying the same, and when paid shall be applied to the liquidation of the outstanding debt of said city of New Tacoma, and any surplus thereof shall be paid into the school fund of East Tacoma school district. All municipal taxes levied by the late corporation, known as Tacoma, incorporated November 12, 1875, and remaining unpaid when this charter goes into effect, shall be collected as provided by the charter of said Tacoma, and when collected shall be paid into the school fund of West Tacoma school district.

§ 95. **Collection of Taxes Levied Under Act of 1883.**—SEC. 170. All municipal taxes heretofore levied by the city of Tacoma, incorporated November 28, 1883, and remaining unpaid when this charter shall go into effect, shall be collected as provided in said act of November 28, 1883, or the ordinances passed levying the same, and when paid shall be applied to the liquidation of the outstanding debt of said city, and any surplus shall be paid into the general fund in the city treasury of the city of Tacoma herein established.

\* \* \* \* \*

CHAPTER XXI.—TOWN OF TUMWATER.

No. 793.—AN ACT TO INCORPORATE THE TOWN OF TUMWATER.<sup>1</sup>

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the town of Tumwater in said Territory shall be bounded as follows, viz.: Commencing at the northwest corner of section twenty-five, in township eighteen north, of range number two west; thence running west two miles to the northwest corner of section number twenty-seven; thence south one mile and a half to the quarter post between sections number thirty-three and thirty-four; thence east two miles to the quarter post between sections thirty-five and thirty-six; thence north one mile and a half to the point of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the said town of Tumwater shall be and are hereby constituted a body politic and corporate, by the name and style of the town of Tumwater, and by that name they and their successors shall be known in law, and have perpetual succession, sue and be sued, plead and be impleaded in all courts whatsoever, and receive property, personal and real, within said town, for public buildings, public works and town improvements, and may dispose of the same in any way for the benefit of said town.

ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. For the government of the said town of Tumwater there shall be annually elected, in the manner hereinafter provided, the following officers: A board of trustees, consisting of five members, who shall hold their office for one year and until their successors shall be duly elected and qualified. Each trustee shall be a resident within said town, and there shall be appointed annually by the board of trustees one president, one clerk and one town marshal.

\* \* \* \* \*

ARTICLE IV.

\* \* \* \* \*

§ 4. **Power of Trustees.**—SEC. 3. The said board of trustees shall have full power and authority—(1) To make all needful by-laws and town regulations; (2) to levy taxes for municipal purposes not to exceed three mills on the dollar, per annum, upon all taxable property in said town, as is shown by the assessment made for Territorial and county purposes.

\* \* \* \* \*

§ 5. **Control Over Roads, etc.**—SEC. 5. The roads, streets and alleys within said town limits shall be under the exclusive control of said board of trustees, who shall make all needful rules in regard to improvement, building, repairing, grading and cleaning the walks and streets in said town.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blen. Sess. 1869, p. 481.) In effect from date.

No. 793<sup>1</sup>.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF TUMWATER," APPROVED DECEMBER 2, 1869.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that territory lying within the limits of the town of Tumwater, and described as

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Blen. Sess. 1875, p. 174.) In effect from date.

follows, viz: Commencing at the northwest corner of section 25, in township 18 north, of range number two west; thence running west to the intersection of the north line of section 27, in the township aforesaid, with the meandered line of the west shore of Budd's Inlet; thence along said meandered line to a point one-fourth of a mile due south of said section line; thence east to the west line of said section 25; thence along said line to the place of beginning, be excluded from within the corporate limits of the said town of Tumwater: *Provided*, That nothing herein contained shall alter the lines of or diminish Tumwater road district as heretofore established, and the trustees of said town of Tumwater shall keep said roads in repair as though lying within the corporate limits of said town, and sufficient of road tax for such purpose collected in said town, shall be applied to the working of the roads within said road district as though within said corporate limits: *And provided further*, That the corporate authorities of said town of Tumwater shall attend to opening and closing the draw in the bridge at the north end of Tumwater, where it crosses the channel of Budd's Inlet, at the expense of said town at all times, and to maintain and keep in repair the south two hundred feet of said bridge; the remaining part of said bridge excluded from said corporate limits of Tumwater shall be under the control of the county commissioners of Thurston county, except the draw as aforesaid, which said town of Tumwater is to take care of, keep in repair and attend to the opening and closing.

\* \* \* \* \*

§ 2. **Collection of Delinquent Taxes.**—SEC. 5. That the following article be added to said act, as follows:

“ARTICLE 2

“SECTION 1. Whenever any municipal tax has been levied as provided and authorized, every part thereof shall bear interest at the legal rate from the time of its becoming delinquent.

“SEC. 2. The board of trustees must provide by ordinance within what time all taxes may be paid to the clerk, and all taxes not paid to the clerk within said time are thereafter delinquent taxes, and must be collected as such.

“SEC. 3. Within five days from the expiration of the time limited for paying taxes to the clerk, the clerk must return the tax roll to the board, distinguishing thereon the taxes paid and those remaining unpaid.

“SEC. 4. The board must thereafter order the clerk to deliver the tax roll to the marshal and issue and annex thereto a warrant directed to the marshal, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll in the manner provided by law, and pay the same to the clerk, and return the warrant with his doings thereon, and the receipt of the clerk for all moneys collected thereby and paid to the clerk.

SEC. 5. Such warrant for the purpose of collecting such delinquent taxes, shall be deemed an execution against property, and shall have the force and effect thereof against any person, firm or corporation, against whom such taxes are levied, or charged on the tax roll, and shall be executed and returned in like manner.

SEC. 6. The board of trustees may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on warrant and collected as a part of the tax. The board of trustees may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the treasury.

\* \* \* \* \*

<sup>2</sup> Not numbered.



**No. 794.—AN ACT TO DISINCORPORATE THE TOWN OF TUMWATER.<sup>1</sup>**

§ 1. **Disincorporation.**—SECTION 1. *Be it enacted, etc.,* That the town of Tum-Water in Thurston county shall be disincorporated and the same shall cease to exist as a corporation from and after the time of depositing and filing the books of record and papers of said corporation in the office of the county auditor of Thurston county as hereinafter provided.

§ 2. **Discharge of Liabilities.**—SEC. 2. The board of trustees of said town of Tum-Water shall on or before the first day of January one thousand eight hundred and seventy-eight, provide for the payment of all the indebtedness and the discharge of all obligations and liabilities of the corporation by sale of the property of said corporation, or by the levy and collection of a sufficient tax for such purposes.

§ 3. **Notice of Disincorporation.**—SEC. 3. When all debts, liabilities, and obligations of corporation shall have been paid, and discharged, the books of record and papers on file in the office of the clerk of said town shall be forthwith deposited in the office of the auditor of Thurston county there to remain and be preserved for future reference; and notice of the disincorporation of said town shall be given by said auditor, by publication thereof in a weekly newspaper of general circulation in said county.

§ 4. **Disposition of Surplus Property and Funds.**—SEC. 4. All property of said corporation remaining undisposed of, and all moneys of the corporation remaining after the payment of all debts and discharge of all liabilities and obligations of the corporation, shall belong to and be transferred to the school district embracing said town of Tumwater.

<sup>1</sup> Approved Nov. 6, 1877. (See Sixth Blen Sess. 1877, p. 361.)

**No. 794½.—AN ACT TO INCORPORATE THE TOWN OF TUMWATER.<sup>1</sup>**

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the town of Tumwater in said Territory shall be bounded as follows, to wit: Commencing at the northwest corner of section twenty-five, in township eighteen north, of range two west; thence running west one and one-half miles to the quarter post between sections twenty-two and twenty-seven; thence south one and one-half miles to the center of section thirty-four; thence east one and one-half miles to the quarter post between sections thirty-five and thirty-six; thence north one and one-half miles to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the said town of Tumwater shall be and are hereby constituted a body politic and corporate, by the name and style of the town of Tumwater, and by that name they and their successors shall be known in law and have perpetual succession; sue and be sued, plead and be impleaded in all courts whatever; may purchase, hold and receive property, both real and personal, within said town, for public buildings, public works and town improvements, may lease, sell or dispose of the same for the benefit of said town.

ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. For the government of the said town of Tumwater there shall be annually elected in the manner hereinafter provided the following officers: A board of trustees, consisting of five members, who shall hold their office for one year, and until their successors shall be duly elected and qualified; \* \* \* one clerk<sup>2</sup> and one town marshal.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 27, 1883. (See Ninth Blen. Sess. 1883, p. 134.) In effect from date.

<sup>2</sup> See No. 795, *infra*.

## ARTICLE IV.

\* \* \* \* \*

§ 4. **Power of Trustees.**—SEC. 3. The said board of trustees shall have full power and authority—(1) To make all needful by-laws and regulations; (2) to levy taxes for municipal purposes, not to exceed four mills on the dollar per annum upon all taxable property in said town, as is shown by the assessment made for Territorial and county purposes.

\* \* \*

\* \* \* \* \*

§ 5. **Control Over Roads, etc.**—SEC. 5. The roads, streets and alleys within said town shall be under the exclusive control of the board of trustees, who shall make all needful rules in regard to improvement, building, repairing, grading, and clearing the walks, streets and alleys in said town.

§ 6. **Construction of Sidewalks, etc.—Collection of Cost.**—SEC. 6. The board of trustees shall have the power to order any property owner or owner of any property within the corporation, to repair or construct sidewalks on any street adjoining his or her property: *Provided*, A majority of the property owners on such street shall petition for the same; and in case said property owner shall refuse or neglect to repair or construct said sidewalks, as ordered by said trustees, the same shall be repaired or constructed by said board of trustees and said adjoining property shall be liable for all labor performed and materials furnished in said improvements; and the same may be collected by civil action in the name of said town of Tumwater, and in such proceedings it shall be sufficient to declare generally for work and labor performed, and materials furnished on the particular lot, parcel of land, and street. If the court trying the same shall be satisfied that the work has been done, or materials furnished, which according to the true intent and meaning of this act would be properly chargeable to the owner of the lot of land through or by which said sidewalk so repaired or constructed may pass, judgment shall be rendered for the value of the work performed and materials furnished, together with the costs of such action on such lots of land, notwithstanding any informality or defects in the proceedings of the officers of said town of Tumwater.

\* \* \* \* \*

No. 795.—AN ACT TO INCORPORATE THE TOWN OF TUMWATER.<sup>1</sup>

## ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.* That the town of Tumwater, in said Territory, shall be bounded as follows, to wit: Commencing at the northwest corner of section twenty-five, in township eighteen north of range two west, thence running west one and one-half miles to the quarter post between sections twenty-two and twenty-seven; thence south one and one-half miles to the center of section thirty-four; thence east to the Deschutes river; thence down and along the channel of said river to the crossing of said river of the line dividing and between the land claims of Smith Hayes and Ira Ward and that of Clanrick Crosby; thence following said line east to the section line dividing and between sections twenty-five and twenty-six; thence north to the place of the beginning.

\* \* \* \* \*

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 431.) This No. after the section here given is *verbatim* as No. 794<sup>1</sup>/<sub>2</sub>, *supra*, except § 3 of said No. at 2 after "one clerk" read "one treasurer," etc.; and at the end of said No. read "Article IX" which is *verbatim* as §§ 21, 22, 23, 24, 25, 26, 27, and 30, of No. 748, *supra*, except wherever in said No. the words "common council" appear read "trustees," and § 24 at 2 instead of "by law" read "by Territorial law," and § 25 at 2 omit "except as in this chapter otherwise provided," and § 26 at 4 omit "any." All conflicting acts and parts of acts repealed. In effect from date.

CHAPTER XXII.—CITY OF VANCOUVER.

No. 7954.—AN ACT TO INCORPORATE THE CITY OF VANCOUVER.

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Vancouver shall be bounded as follows: Commencing at the southwest corner of the military reservation at Vancouver, in the county of Clarke; thence westerly along the south line of Mrs. Esther Short's land claim to the southwest corner of said claim; thence north three fourths of a mile; thence east to the west line of the military reservation, and thence southerly along said line thirty chains; thence east fifty chains; thence south to the Columbia river; thence west along the meanders of said river, to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of said city of Vancouver shall be and they are hereby constituted a body politic and corporate, by the name and style of "The City of Vancouver," and by that name they and their successors shall be known in law and have perpetual succession, sue and be sued, plead and be impleaded, in all courts of law whatever, and receive property, personal and real, within said city, for public buildings, public works and city improvements, and may dispose of the same in any way for the benefit of the city; may purchase property beyond the limits of the city to be used for burial purposes, and for the establishment of a hospital for the reception of persons affected with contagious diseases.

ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. For the government of the city, there shall be elected, in the manner hereinafter provided, the following officers: A common council (consisting of seven members), a mayor, recorder, a treasurer, a marshal, an assessor, who shall hold their offices two years, and until their successors shall be duly elected and qualified, and there shall be appointed every two years, by the city council, \* \* \* a street commissioner, a city surveyor, and a city collector.

\* \* \* \* \*

ARTICLE IV.

\* \* \* \* \*

§ 4. **Powers of the Council.**—SEC. 3. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States, or the laws of this Territory necessary to carry into effect the provisions of this chapter. (2) To levy taxes not to exceed one-half of one per centum per annum upon all real and personal property made taxable by law for Territorial and county purposes.

\* \* \* \* \*

ARTICLE VI.

\* \* \* \* \*

§ 5. **Collection of Taxes.**—SEC. 5. It shall be the duty of the collector to issue all licenses granted by the city authority, to collect all moneys and taxes, and pay the same over to the treasurer monthly, and he shall have the same power to enforce the payment of taxes or other moneys due the city as the county collectors now or may have, and shall resort to the same means provided or that may hereafter be provided for the collection of county funds.

\* \* \* \* \*

**No. 796.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF VANCOUVER."**<sup>1</sup>

§ 1. **Special Tax.**—SECTION 1. *Be it enacted, etc.,* That article 4, section 3, be so amended that it shall read, after clause 4— \* \* \* 16 The common council shall have power to levy and collect an additional tax not exceeding one-half of one per cent. on all the taxable property of the city, whenever such additional revenue shall be required for some specific object. The ordinance levying such tax shall set forth the specific object, and the estimated costs thereof. \* \* \* (20) That all laws repugnant to or inconsistent with the provisions of this act be and the same are hereby repealed.

<sup>1</sup> Passed Jan. 13, 1858. (See Fifth Reg. Sess. 1857-58, p. 49.)

**No. 796½.—AN ACT TO AMEND AN ACT AMENDATORY TO AN ACT TO INCORPORATE THE CITY OF VANCOUVER.**<sup>1</sup>

§ 1. **Manner of Assessment and Collection of Taxes.**—SECTION 1. *Be it enacted, etc.,* That the act to which this is amendatory<sup>2</sup> be so amended as to read in said act as follows: \* \* \* Sec. 3. It shall be the duty of the assessor of said city, within ten days after any assessment is made to furnish the recorder with a copy of such assessment; and when such copy shall be received by the recorder it shall be his duty, within six days thereafter, to make out a tax duplicate and present the same to the collector of said city, charging such collector with the full amount of tax to be collected. The collector shall have the same power and authority to collect such taxes as the collector has, or may hereafter have, by the laws of this Territory, to collect county tax; all fines and taxes collected by any officer of said city shall be paid to the city treasurer within ten days after collecting the same.

\* \* \*  
§ 2. **Repealing Clause.**—SEC. 4. All acts and parts of acts conflicting with any of the provisions of this act be and the same are hereby repealed.

<sup>1</sup> Passed Jan. 30, 1860. (See Seventh Reg. Sess. 1859-60, p. 461.)

<sup>2</sup> See No. 789.

**No. 797.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF VANCOUVER."**<sup>2</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the first section of an act entitled "An act to incorporate the city of Vancouver," passed January 23, 1857,<sup>3</sup> be and the same is hereby amended so as to read as follows: "The city of Vancouver shall be bounded as follows: Commencing at the southwest corner of the military reservation in Vancouver, in the county of Clarke; thence westerly along the south line of the land claims of Mrs. Esther Short, deceased, and Amos M. Short, deceased, to the southwest corner of the land claim of Amos M. Short, deceased; thence north three-fourths of a mile; thence east to the west line of the land claim of William Ryan; thence southerly along said line to the Columbia river; thence west along the meander of said river to the place of beginning.

\* \* \*

<sup>1</sup> Act.

<sup>2</sup> Passed December 24, 1863. (See Eleventh Reg. Sess. 1863-64, p. 125.) All inconsistent acts and parts of acts repealed.

<sup>3</sup> See No. 795½, *supra*.

**No. 797½.—AN ACT TO FURTHER AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF VANCOUVER," PASSED JANUARY 23, 1857.<sup>1</sup>**

**§ 1. General Authority Granted.**—SECTION 1. *Be it enacted, etc.,* That the common council of the city of Vancouver be and they are hereby empowered to pass such ordinances as will in their judgment be sufficient to compel the removal of obstructions, erection and keeping in repair of sidewalks within the limits of said city of Vancouver.

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<sup>1</sup>Approved Jan. 29, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 182.) In effect from date.

**No. 798.—AN ACT TO PROVIDE FOR THE ORGANIZATION OF A FIRE DEPARTMENT IN THE CITY OF VANCOUVER.<sup>1</sup>**

**§ 1. May Provide by Ordinance** —SECTION 1. *Be it enacted, etc.,* That the common council of the city of Vancouver shall have power by ordinance to provide for the organization of a fire department for the city of Vancouver; such fire department to consist of one or more companies organized in the manner to be prescribed by said common council: *Provided,* That the officers of such companies shall be elected by the respective members thereof.

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**§ 2. General Authority.**—SEC. 4. The said city council may pass an ordinance not repugnant to the laws of the United States or of this Territory, necessary or convenient for carrying the power and authority herein granted, or any part thereof, into effect; the object of this act being to give the necessary authority to the common council to provide for the prevention and extinguishment of fires and for the preservation of property endangered thereby, and for that purpose this act shall be liberally construed.

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<sup>1</sup>Passed Jan. 30, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 210.) In effect from date.

**No. 798½.—AN ACT TO INCORPORATE THE CITY OF VANCOUVER.<sup>1</sup>**

#### CHAPTER I.

**§ 1. Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Vancouver shall be bounded as follows: Commencing at the southwest corner of the military reservation of Fort Vancouver, in the county of Clark; thence westerly along the meanders of the Columbia river down stream to the southwest angle of the donation land claim of Amos M. and Esther Short, deceased; thence north three-fourths of a mile; thence east to a point due north of the west line of the donation land claim of William Ryan; thence southerly along said line to the Columbia river; thence west along the meanders of said river to the place of beginning.

**§ 2. General Powers.**—SEC. 2. The inhabitants of the city of Vancouver are hereby constituted and declared to be a municipal corporation by the name and style of the "City of Vancouver," and by such name shall have perpetual succession, sue and be sued, plead and be impleaded in all courts of justice, and in all actions suits or proceedings whatever; may purchase, hold and receive property, both real and personal, within said city for public buildings, public works and city improvements; may

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<sup>1</sup>Approved Jan. 29, 1868. (See First Bien. Sess. 1867-68, p. 109.) In effect from date. All conflicting acts and parts of acts repealed.



lease, sell or dispose of the same for the benefit of the city; may purchase, hold and receive property, both real and personal, beyond the limits of the city to be used for burial purposes, for the establishment and maintenance of a hospital for the reception of persons afflicted with contagious and other diseases, for workhouses and for houses of correction; also for the erection of water works to supply the city with water; and they shall have and use a common seal, and may alter and break the same or make a new one at pleasure.

## CHAPTER II.

§ 3. **Government.**—SEC. 3. The power and authority given to the municipal corporation of the city of Vancouver by this act is vested in a mayor and common council and their successors in office, to be exercised in the manner hereinafter described.

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§ 4. **Officers.**—SEC. 6. There shall be elected \* \* \* treasurer.  
marshal, assessor, collector, \* \* \*

\* \* \* \* \*

## CHAPTER V.

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§ 5. **Style of Ordinances.**—SEC. 31. The style of every ordinance shall be: "The City of Vancouver does ordain as follows."

§ 6. **Powers of the Council.**—SEC. 32. The council has power and authority within the city of Vancouver—(1) To assess, levy and collect taxes for general municipal purposes not to exceed one-half of one per centum per annum upon all property, both real and personal, which is taxable by law for Territorial or county purposes. \* \* \* (20) To levy and collect each year a special tax not exceeding one-half of one per centum, assessed by authority of the first subdivision of this section, for any specific object within the authority of this municipal corporation; but the ordinance providing therefor must specify the object thereof, and the estimated amount necessary therefor. \* \* \* (23) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks or streets. \* \* \*

§ 7. **Ordinances.**—SEC. 33. The power and authority given to the council by section thirty-two can only be enforced or exercised by ordinance, unless otherwise expressly provided, and a majority of the council may pass any ordinance not repugnant to the laws of the United States or this Territory, necessary or convenient for carrying such power and authority, or any part thereof, into effect.

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## CHAPTER VII.

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§ 8. **Duties of Assessor.**—SEC. 46. The assessor must annually make a correct list of all the property subject to taxation in the city of Vancouver, with the valuation thereof, and certify and return the same to the clerk of the common council.

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§ 9. **Manner of Assessment.**—SEC. 48. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes, but the form of the assessment roll and the rule for ascertaining the ownership of property, and in whose name it may be assessed, may be prescribed by ordinance, and the time of making such assessment and the return thereof and of applying to the council for a revision thereof must be prescribed by ordinance.

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§ 10. **Duties of Collector.**—SEC. 51. The collector shall collect all delinquent taxes and assessments when required by warrant, and pay the same to the treasurer monthly.

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## CHAPTER VIII.

§ 11. **Improving Streets, etc.**—SEC. 65. The council has power and is authorized, whenever it deems it expedient, to establish or alter the grade, and to improve any street or part thereof now or hereafter laid out or established within the corporate limits of the city. The power and authority to improve a street includes the power and authority to improve the sidewalks and pavements, and to determine and provide for everything convenient or necessary for such improvement.

§ 12. **Notice of Improvement, etc.**—SEC. 66. No grade or improvement mentioned in the foregoing section can be undertaken or made without first posting written notices in at least five of the most public places in said city for two weeks, or publishing said notices in some paper published in said city for said period.

§ 13. **What Notice Must Specify.**—SEC. 67. Such notice must be given by the clerk of the common council by order of the council, and must specify with reasonable certainty the street or part thereof proposed to be improved, or of which the grade is proposed to be established or altered, and the kind of improvement which is proposed to be made.

§ 14. **Effect of Remonstrance.**—SEC. 68. Within ten days from the final publication of expiration of such notice, the owners of two-thirds of the assessed value of the property adjacent to such street or part thereof, as the case may be, may make and file with the clerk of the common council a written remonstrance against the proposed improvement, grade, or alteration thereof, and thereupon the same shall not then be farther proceeded in or made.

§ 15. **Effect of Failure to Remonstrate.**—SEC. 69. If no such remonstrance be so made and filed, the council at its earliest convenience thereafter, and within six months from the final publication of such notice, may establish the proposed grade or alteration thereof, or commence to make the proposed improvements as hereinafter provided.

§ 16. **Ordinance Establishing.**—SEC. 70. In the case of a notice to establish a grade or alteration thereof, the council, within the time limited by the first section of this chapter, may establish the same by ordinance as proposed in this section.

§ 17. **Assessment for Improvement.**—SEC. 71. In case the notice be for the improvement of a street or a part thereof, the council may proceed to ascertain and determine the probable cost of making such improvement, and assess upon each lot or part thereof, liable therefor, its proportionate share of such cost.

§ 18. **Declaration of Assessment.**—SEC. 72. When the probable cost of the improvement has been ascertained and determined, and the proportionate share thereof of each lot or part thereof has been ascertained as provided in the preceding section, the council must declare the same by ordinance, and direct its clerk to enter a statement thereof in the docket of the city liens as provided in the next section.

§ 19. **Docket of Liens: What Shall Contain.**—SEC. 73. The docket of city liens is a book in which must be entered, in pursuance of the preceding section, the following matters in relation to assessments for the improvement of streets—(1) The number of the lot assessed and the number of the block in which it is situated, and if a separate assessment is made upon a part of a lot, a particular designation of such part. (2) The name of the owner thereof, or that the owner is unknown. (3) The sum assessed upon such lot or part thereof and the date of the entry.

§ 20. **Effect of Entry in Lien Docket.**—SEC. 74. The docket of city liens is a public record, and the original or certified copies of any matter authorized to be entered therein are entitled to the force and effect thereof, and from the date of the entry therein of an assessment of a lot or part

thereof, the same so entered is to be deemed a tax levied and a lien thereon, which lien shall have priority over all other liens or incumbrances thereon, save and excepting liens of the United States, Territory or county, for delinquent taxes.

**§ 21. How Owner Ascertained.**—SEC. 75. For the purpose of ascertaining who is the owner of any lot or part thereof, assessed for the improvement of a street, the clerk may take the certificate of the auditor for the county of Clark, stating who is the owner thereof at the date of the ordinance making the assessment, as may appear from the record of deeds for such county, which certificate such auditor is authorized and required to give when demanded by the clerk.

**§ 22. Notice Necessary Before Collection.**—SEC. 76. A sum of money assessed for the improvement of a street cannot be collected until, by order of the council, notice thereof is given by publication in a newspaper published in the city or posted as required in section sixty-six. Such notice must substantially contain the matters required to be entered in the docket of city liens concerning such assessment.

**§ 23. Warrant for Collection.**—SEC. 77. If, within five days from the final publication of the notice prescribed in section seventy-six, the sum assessed upon any lot or part thereof is not wholly paid to the city treasurer, and a duplicate receipt therefor filed with the clerk, the council may thereafter order a warrant for the collection of the same to be issued by the clerk, directed to the city collector, or other person authorized to collect taxes due the city.

**§ 24. What Warrant Shall Require.**—SEC. 78. Such warrant must require the person to whom it is directed to forthwith levy upon the lot or part thereof upon which the assessment is unpaid, and sell the same in the manner provided by law, and to return the proceeds of such sale less his fees, to the city treasurer, and the warrant to the clerk, with his doings endorsed thereon, together with the receipt of the city treasurer for the proceeds of such sale as paid to him.

**§ 25. Force and Effect of Warrant.**—SEC. 79. Such warrant shall have the force and effect of an execution against real property, and shall be executed in like manner, except as in this chapter otherwise specially provided.

**§ 26. Tax Deed: What Shall State.**—SEC. 80. The person executing such warrant shall immediately make a deed for the property sold thereon to the purchaser, stating therein that the same is made subject to redemption, as provided in this chapter. Within three years from the date of such sale, the owner or his successor in interest, or any person having a lien by judgment, decree or mortgage on the property or any part thereof separately sold, may redeem the same upon the terms and conditions provided in the next section.

**§ 27. Redemption: Limitation and Manner of.**—SEC. 81. Redemption is made by the payment of the purchase money, and twenty-five per cent. addition, together with interest upon the purchase money from the date of sale to the time of payment at legal rate, and the amount of any tax which the purchaser may have paid upon the property.

**§ 28. Effect of Redemption.**—SEC. 82. A redemption discharges the property from the effects of the sale for the assessment. If made by the owner or his successor in interest, the estate in the property is thereby restored to such owner or his successor in interest, as the case may be; but if made by a lien creditor, the amount paid for the redemption is thereafter to be deemed a part of his judgment, decree or mortgage as the case may be, and shall bear like interest, and may be enforced and collected as a part thereof.

**§ 29. How Redemption Enforced.**—SEC. 83. Whenever a purchaser, or those claiming under him, refuses to convey to a person entitled to re-

deem, such person may enforce a conveyance therefor by a suit, as for a specific contract to convey real property; and such suit may be maintained against absent parties, without proof of tender of the money and offer to redeem, if the plaintiff bring such money into court and offer then to redeem.

**§ 30. Abutting Property to Pay for Improvement.**—SEC. 84. Each lot or part thereof within the limits of a proposed street improvement, shall be liable for the full cost of making the same upon the half of the street in front of and abutting upon it, and also for a proportionate share of the cost of improving the intersection of two of the streets bounding the block in which said lot or part thereof is situated.

**§ 31. Apportionment of Cost.**—SEC. 85. The probable cost of improving such intersection is to be assessed upon the lots or parts thereof situated in the quarters of the four blocks adjoining such intersection; but only upon the lots or parts thereof within the quarters nearest thereto, and in proportion to the cash value of such lots or parts thereof, irrespective of improvements thereon.

**§ 32. Force and Effect of Sale.**—SEC. 86. A sale of real property, under the provisions of this chapter, conveys to the purchaser, subject to redemption, as herein provided, all the estate or interest therein of the owner, whether known or unknown, together with all the rights and appurtenances thereunto belonging.

**§ 33. Lien for Taxes, etc.**—SEC. 87. When an assessment upon any lot or part thereof becomes delinquent, any person having a lien thereon by judgment, decree or mortgage, may, at any time before the sale of such lot or part thereof, pay the same, and such payment discharges the property from the effect of the assessment, and the amount of such delinquent taxes and all accruing costs and charges, if any, when so paid, is thereafter to be deemed a part of such lien creditor's judgment, decree or mortgage, as the case may be, and shall bear like interest, and may be enforced and collected as a part thereof.

**§ 34. Work to be Let by Bid.**—SEC. 88. The council must provide by ordinance for the time and manner of doing the work on any proposed improvement, subject only to the following restrictions: (1) After proper notice, the work must be let to the lowest bidder, but a bid by the owner or owners of two-thirds of the property in a block fronting on a street proposed to be improved must be accepted, if as low as any other bid, and the council may provide for the rejection of any or all bids, when deemed unreasonable, and that the bid of any person who has before bid or contracted for such work and been delinquent therein, shall not be received.

**§ 35. If Sum Assessed Insufficient to Defray Cost Deficiency Shall be Added.**—SEC. 89. If, upon the completion of any improvement, it is found that the sum assessed therefor upon any lot or part thereof is insufficient to defray the cost thereof, the council must ascertain the deficit and declare the same by ordinance; when so declared, the auditor must enter the sum of the deficit in the docket of city liens, in a column reserved for that purpose in the original entry with the date thereof, and such deficit shall thereafter be a lien upon such lot or part thereof, in like manner, and with like effect as in case of the sum originally assessed, and shall also be payable and may be collected in like manner and with like effect as in the case of such sum so assessed.

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**§ 36. Rate of Interest on Assessments.**—SEC. 91. All money paid or collected upon assessments for the improvement of streets shall be kept as a separate fund, and in no wise used for any other purpose whatever; all money so assessed, including a deficit from the time of being entered in the docket of city liens, shall bear interest at the legal rate until paid or collected.

§ 37. **In What Case Notice Not Required.**—SEC. 92. The proceedings authorized by this chapter for the establishment or alteration of a grade, or the improvement of a street, or a part thereof, may be taken and had without giving the notice prescribed in section sixty-six, whenever the owner or owners of two-thirds of the adjacent property shall in writing petition the council therefor.

§ 38. **Only One Improvement Permissible.**—SEC. 93. When a street or part thereof has been once improved under and by virtue of the provisions of this chapter, thereafter such street or part thereof is not subject to be again improved, but may be repaired.

§ 39. **Repairing Streets, etc.**—SEC. 94. The council is authorized to repair any street or part thereof, whenever it deems it expedient, and to declare by ordinance, before doing the same, whether the cost shall be assessed upon the adjacent property, or be paid out of the general fund of the city.

§ 40. **Method of Assessment for Repairing.**—SEC. 95. If the council declares that a proposed repair shall be made at the cost of the adjacent property, thereafter the proposed repair is to be deemed an "improvement," and shall be made accordingly; but if it declares that the cost of the same shall be paid out of the general fund, such repairs may be made as the ordinance may require, and be paid for accordingly.

§ 41. **How Collected.**—SEC. 96. The manner and cost of establishing or altering the grade of any street or part thereof shall be made and paid for the same as an "improvement," but nothing herein shall be so construed as to preclude the council in its discretion from paying the cost of establishing or altering the grade of any street or part thereof out of the general fund of the city.

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§ 42. **Tax Deed: What Shall State.**—SEC. 98. The deed to the purchaser must express the true consideration thereof, which is the amount paid by the purchaser, and the return of the person executing the warrant must specify the amount for which each lot or part thereof sold and the name of the purchaser.

#### CHAPTER IX.

§ 43. **Rate of Interest on Taxes.**—SEC. 99. Whenever any general or special tax has been levied as provided and authorized in section thirty-two, every part thereof shall bear interest at the legal rate from the time it becomes delinquent.

§ 44. **When Taxes Become Delinquent.**—SEC. 100. The council must provide, by ordinance, within what time all taxes levied as provided and authorized in section thirty-two may be paid to the treasurer; and all taxes not paid to the treasurer within such time are thereafter delinquent taxes and must be collected as such.

§ 45. **Return of Roll.**—SEC. 101. Within five days from the expiration of the time limited for paying taxes to the treasurer, the treasurer must return the tax roll to the council, distinguishing thereon the taxes paid and those remaining unpaid.

§ 46. **Warrant for Collection.**—SEC. 102. The council must thereafter order the clerk to deliver the tax roll to the collector, and issue and annex thereto a warrant directed to the collector, commanding him to proceed and forthwith to collect the delinquent taxes upon such roll, in the manner provided by law, and pay the same to the treasurer, less his fees and costs of collection, and return the warrant with his doings thereon, and the receipt of the treasurer for all moneys collected thereby and paid to the treasurer, to the clerk.

§ 47. **Force and Effect of Warrant.**—SEC. 103. Such warrant for the purpose of collecting such delinquent taxes shall be deemed an execu-



tion against property, and shall have the force and effect thereof against any person, firm or corporation against whom such taxes are levied or charged on the tax roll, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

§ 48. **In What Case Real Property May be Levied.**—SEC. 104. If no personal property be found whereon to levy the warrant, or if that levied upon be not sufficient to satisfy the same, it must be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged, or sufficient thereof to satisfy such warrant, including interest, fees of officer and all expenses of sale and executing the warrant.

§ 49. **How Levied Against Unknown Owner.**—SEC. 105. In case of a delinquent tax levied upon real property in the name of an owner unknown, the warrant shall be executed by levying upon each lot or part thereof of such property for the tax levied thereon, and selling it separately.

§ 50. **Collection of Taxes Heretofore Levied.**—SEC. 106. All taxes heretofore levied by the municipal corporation of Vancouver, and remaining unpaid or delinquent may, by order of the council, be collected from the person, firm or corporation, whether known or unknown, against whom the same were charged or levied by warrant in the manner and with the effect provided in this chapter for the collection of delinquent taxes.

§ 51. **Tax Deed: What Shall State.**—SEC. 107. When real property is sold for delinquent taxes, the person executing the warrant must immediately make a deed for such property to the purchaser, stating therein that the same is made subject to redemption, as provided by law, and such sale shall have the effect prescribed in section eighty-six.

§ 52. **Redemption: Limitation and Manner of.**—SEC. 108. Real property sold for delinquent taxes, as provided in this chapter, may be redeemed by the owner or his successor in interest, or by any person having a lien by judgment, decree or mortgage on such property, or any part thereof, separately sold, within three years from the date of the deed therefor, and upon the terms and conditions and with the effect provided in chapter VIII of this act, in the case of sales of real property for delinquent assessments for the improvement of streets, and such delinquent tax may be paid by such lien creditor, in the same manner and with like effect as a delinquent assessment, as provided in section eighty-seven.

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§ 53. **Return of Warrant, etc.**—SEC. 111. The council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for collecting delinquent taxes must be made on the warrant, and collected as a part of the tax. The council may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the treasury.

§ 54. **What Property Subject to Levy.**—SEC. 112. All property subject to levy upon execution is subject to levy upon a warrant for the collection of delinquent taxes, and also all property subject to assessment for taxation, as provided in section thirty-two, whether the same be exempt from execution or not.

#### CHAPTER X.

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§ 55. **Actions Concerning Assessments, etc.**—SEC. 120. In any action, suit or proceedings in any court, concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax, or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith shall be presumed to be

regular and duly done or taken until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final, and cannot be reviewed or called in question elsewhere.

**§ 56. Conveyance of Certain Lots.**—SEC. 121. The city council is authorized to sell and convey any lots in the city cemetery at public auction or otherwise, and under such rules and regulations as may be adopted by the council; and it shall not be necessary to secure title to such lots to have the same conveyed by deed but a certificate of sale issued by the clerk, under the direction of the council and attested by the city seal, shall be sufficient to pass the title of such lots to any purchaser from the city.

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**§ 57. Tax Deed: What Shall Not be Necessary to Recite in.**—SEC. 123. In making a deed for real property sold for delinquent taxes, or a delinquent assessment for the improvement or grade of a street, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city of Vancouver, and the date thereof, for a delinquent assessment or tax, and the amount thereof, together with the date of the sale, and the amount bid thereat by the purchaser. The style of a warrant for the collection of delinquent assessments or taxes shall be: "In the name of the city of Vancouver."

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**§ 58. May Authorize Private Improvement.**—SEC. 125. Whenever the grade of any street has been established, the council may authorize the owner or owners of any property thereon to cut down or fill up such street in front of such property, according to such grade, at the expense and cost of such owner, but the authority mentioned in this section cannot be given after an assessment has been made for the improvement of the street in front of such property; and in giving such authority the council may impose such terms and conditions thereon as may be necessary to secure the deposit of excavations upon any part of such street as may be required to be filled up.

**§ 59. Assessment of Acreage.**—SEC. 126. All real property within the limits of the city of Vancouver, not laid off in blocks and lots at the time of making any assessment authorized by this act, must be assessed at its cash value per acre or fraction thereof, as the case may be.

**§ 60. Redemption in Certain Case.**—SEC. 127. Whenever any lot or part thereof is sold for a delinquent assessment for a street improvement, and afterwards resold for a deficit in such assessment, as in this act provided, to any person other than the purchaser at the first sale or his successor in interest, such purchaser or successor, for the purpose of making redemption from the purchaser at such resale, is to be deemed an owner within the meaning of this act.

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**§ 61. Ordinances Heretofore Enacted.**—SEC. 129. All city ordinances passed in pursuance of law, and in force when this act takes effect, and not inconsistent therewith, shall be and remain in full force after this act takes effect, and thereafter until repealed by the council; and all rights vested, or liabilities incurred, under any laws heretofore passed, or under any city ordinance, when this act takes effect, shall not thereby be lost, impaired or discharged.

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**No. 799.—AN ACT TO PRESCRIBE REGULATIONS FOR THE DISPOSAL OF LOTS IN THE CITY OF VANCOUVER, AND THE PROCEEDS OF THE SALE THEREOF.<sup>1</sup>**

**§ 1. Preamble.**—WHEREAS, Patent was issued on the third day of November, 1874, by the United States of America to Abel G. Tripp, mayor of the city of Vancouver, Washington Territory, in trust for the several use and benefit of the inhabitants of the said city, according to their respective rights and interests, by virtue of the act of congress approved March second, one thousand eight hundred and sixty-seven, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," and in pursuance of the provisions of the act of congress of April twenty-fourth, eighteen hundred and twenty, for the following described tract of land, to wit: Beginning at a balm of gilead tree on the north and right bank of the Columbia river; thence north seventy-eight chains, intersect line between sections twenty-two and twenty-seven, three chains and thirty links east of a post for quarter section corner, seventy-nine chains and seventy-five links to the northwest corner of townsite; thence east thirty-one chains and sixty six links to the west boundary of the United States military reservation and the northeast corner of townsite; thence south twenty-two degrees, forty-five minutes west, two chains and eighteen links, intersect line between sections twenty-two and twenty-seven, five chains and seventy-four links west of corner to sections twenty-two, twenty-three, twenty-six and twenty-seven, eighty-five chains and ninety-eight links to the southwest corner of military reserve; thence south forty-five degrees west, five links to cottonwood (balm of gilead) tree, and place of beginning; said tract being parts of sections twenty-two and twenty-seven, in township two north, of range one east, of the Willamette meridian, in the district of land subject to sale at Vancouver, Washington Territory, containing one hundred and twenty-nine acres and twenty-hundredths of an acre according to the official plat and survey thereof, which said tract of land has been purchased by the said Abel G. Tripp, mayor as aforesaid, in trust as aforesaid; and

WHEREAS, The city authorities of the said city of Vancouver did, on the tenth day of June, eighteen hundred and fifty-nine, cause a plat and survey of the said tract of land herein described into lots, blocks and streets to be made and recorded upon the proper records of Clarke county, Washington Territory, which will more fully appear by reference to pages fifty-three and fifty-four of book "C" of the records of said county; and

WHEREAS, The city authorities of the said city of Vancouver have expended in procuring title to the land herein described the sum of three thousand dollars: therefore,

**§ 2. Execution of Deeds—Who Entitled to Receive.**—SECTION 1. *Be it enacted, etc.,* That the mayor of the city of Vancouver, Washington Territory, and his successor in office, as trustee aforesaid, be and are hereby authorized and empowered to make, execute and deliver, good and sufficient deeds of conveyance to all persons holding and occupying lots in the limits of the said city of Vancouver, as laid off, platted and recorded by the authorities thereof, who shall have acquired a right thereto by having located and built upon, or so fenced and improved the same as to have complied with the provisions of the several acts of Congress relating thereto, and to all persons who shall have purchased the right to such lots from persons lawfully claiming, occupying and improving the same as aforesaid.

**§ 3. Notice to Claimants.**—SEC. 2. The mayor of the said city of Vancouver shall publish a notice in some weekly newspaper in general circu-

<sup>1</sup> Approved Nov. 11, 1875. (See Fifth Blen. Sess. 1875, p. 183.) In effect from date.

lation in the Territory, once a week for three months, requiring claimants to present their proofs and make good their claims to such lots, and claimants to lots in the said city shall have three months from the first publication of such notice to present their claims and proofs to entitle them to deeds, saving to minors and all other persons laboring under any legal disability, three months after such disability shall have been removed in which to make their claims and proofs entitling them to such conveyances.

**§ 4. Board Constituted to Adjust Claims.—SEC. 3.** The mayor and two persons, resident of said city, to be appointed by the city council, shall constitute a board to whom all claims to lots, and proof in support thereof, shall be made and presented, who, or a majority of them, shall have power to pass upon the merits of such claims, and the sufficiency of the proofs in support thereof under the provisions of this act, and shall, when in the opinion of a majority of said board a claim to a lot or lots shall have been established, allow the same, and order that a conveyance be made by the mayor of said city, as trustee, to the person or persons entitled thereto, in the manner and under the restrictions thereafter provided, and for the purpose of this act each member of the said board shall have power and authority to administer oaths.

**§ 5. Fees for Deed.—SEC. 4.** Before receiving any deeds of conveyance of any lot or fractional lot in the said city, the persons entitled thereto shall pay into the treasury of the said city the sum of five dollars for each lot or fractional lot containing more than one-half of a lot, and two dollars and fifty cents for each fractional lot containing less than one-half of a whole lot, for all lots or fractions of lots lying south of Thirteenth street in said city; and the sum of three dollars for each lot, or fractional lot containing more than one-half of a lot, and the sum of one dollar and fifty cents for each fractional lot containing less than one-half of a whole lot, for all lots or fractional lots lying north of the said Thirteenth street in the said city, and shall file with the city clerk the treasurer's receipt showing such payment has been made, and the proceeds of the sale of said lots shall be appropriated by the common council of the said city to pay the indebtedness of the said city incurred in procuring the title to the said townsite.

**§ 6. How Deeds Shall be Executed.—SEC. 5.** All deeds for lots in the city of Vancouver shall be executed by the said mayor, as trustee, under his hand and seal; shall be attested by the clerk of the common council, who shall affix thereto the seal of the said city.

**§ 7. Sale of Lots Unclaimed.—SEC. 6.** All lots or fractions of lots in the said city for which no claim shall be established within three months from the first publication of the notice provided for in section two of this act, shall be held and deemed to be unclaimed and vacant, saving the rights of minors and other persons, as in this act provided, and shall be sold by the said mayor of said city, as trustee, at public auction in the city hall in said city, to the highest bidder for cash down, in United States legal tender notes, after giving three weeks' notice of the time and place of such sale and a description of the lots to be sold in any newspaper in general circulation in Clarke county, Washington Territory; and when any such unclaimed lots, or fractions of lots, shall have been sold, the said mayor, as trustee, shall make and deliver to the purchaser thereof at his expense a good and sufficient conveyance for the same upon the judgment of the purchase price thereof, as in this act provided. And all moneys arising under the provisions of this section, shall be paid into the treasury of said city, by the said mayor, and shall be used by the said common council in liquidating the indebtedness of the said city in procuring title to said townsite.

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**No. 799<sup>1</sup>.—AN ACT DEFINING THE BOUNDARIES OF THE CITY OF VANCOUVER.<sup>1</sup>**

§ 1. *Be it enacted, etc.*—SECTION 1. That the city of Vancouver shall be bounded as follows: Commencing at the southwest corner of the military reservation of Fort Vancouver in the county of Clark [e], thence westerly along the meanders of the Columbia river down stream to the southwest angle of the donation land claim of Amos M. and Esther Short, deceased, thence north three-fourths of a mile, thence east to a point due north of the west line of the donation land claim of William Ryan; and thence southerly along said line sixteen and sixty-three one hundredths chains to a point where the easterly line of the United States military reservation crosses the west line of the said William Ryan's donation claim; thence southerly along the east line of said United States military reservation to the Columbia river; thence westerly along said river to the place of beginning.

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<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 362.) In effect from date.

**No. 800.—AN ACT TO INCORPORATE THE CITY OF VANCOUVER.<sup>1</sup>**

CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the corporate limits of the city of Vancouver, and the boundaries thereof, shall be as follows, to wit: Beginning at the southeast corner of the donation land claim of Amos M. Short and Esther Short, in township two north, of range one east of the Willamette meridian, said point of beginning being at low water mark on the Columbia river, and running thence westerly, following the meanders of said river at low water mark to the southwest corner of the said donation land claim; thence north on the west boundary line of said donation land claim to the northwest corner thereof; thence due east to the west boundary line of the United States military reservation, and thence southerly along said military reserve line to the place of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Vancouver, within the limits herein described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Vancouver," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all actions or proceedings whatever, whether at law or in equity, contract and be contracted with, and have and use a common seal, and may alter or change the same at pleasure.

CHAPTER II.

§ 3. **General Powers of Taxation.**—SEC. 3. The city of Vancouver shall have power to assess, levy and collect taxes for general municipal purposes, not to exceed one-half of one per centum upon all property, both real and personal, within the city, which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided; but all taxes for general and special municipal purposes, exclusive of assessments for improvements, as in this act provided, shall not exceed in any year one per centum on the property assessed.

§ 4. **Protection From Fire: Taxation for.**—SEC. 4. The said city shall have power to make regulations by ordinance for the prevention of

<sup>1</sup> Approved Oct. 27, 1883. (See Ninth Bien. Sess. 1883, p. 185 ) All conflicting acts or parts of acts repealed. In effect from date.



accidents by fire, to organize and establish fire departments, and ordain rules for the government thereof; to provide fire engines and other apparatus, and to levy and collect special taxes for that purpose, not to exceed in any one year one-half of one per centum on the taxable property within the corporate limits of the city.

**§ 5. Appropriation of Private Property for Streets, etc.: Taxation for—Conveyance.**—SEC. 5. The city shall have power to purchase or condemn, and enter upon and take possession of any lands within or without its corporate limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction or any other proper and legitimate municipal purposes, and inclose, ornament and improve the same, and erect necessary public buildings thereon, and for these purposes may levy and collect special taxes, not exceeding one-half of one per centum on the taxable property in said city in any one year. The city shall have entire control of all such lands purchased or condemned under the provisions of this act, and all buildings thereon and of all streets, highways, squares and public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use, and has power in case such lands are deemed unfit or insufficient for the purposes intended to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall vest in the purchaser all the right, title and interest of the city therein.

**§ 6. Lighting Streets, etc.: Taxation for.**—SEC. 6. The city shall have power to provide for the lighting of the streets with gas or other lights within such districts or limits as may be prescribed by ordinance, and for the erection and construction of such works as may be necessary or convenient therefor, and has power to levy and collect for these purposes a special tax not exceeding one-fifth of one per centum upon the taxable property within such districts or limits benefited by such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes shall be assessed upon and collected only from the taxable property within said districts or limits.

**§ 7. Opening, Improving Streets, etc.: Taxation for.**—SEC. 7. The city shall have power to provide for clearing, opening, paving, graveling, improving and repairing the streets and highways and public levee, and for the prevention and removal of obstructions therefrom, and from any cross or sidewalk; also to regulate cellar ways, cellar lights and sidewalks within the city, and to provide for cleaning the streets, and for constructing sewers and cleaning and repairing the same, and shall have power to assess, levy and collect a special tax upon the taxable property of the city to accomplish these purposes, not exceeding in any one year two-fifths of one per centum.

**§ 8. Constructing, etc., Sidewalks, and Paving, etc., Streets, etc.: Taxation for.**—SEC. 8. The city shall have power to construct and repair sidewalks and to curb, pave, grade, macadamize and gutter any street or streets, highway or highways, within the city or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such streets or highways, or any part thereof, sufficient to pay the expense of such improvement, and for that purpose may establish assessment districts consisting of the whole or any portion of such streets or highways, or of several streets and highways as may be deemed advisable; but unless the owners of more than one-half of the property subject to assessment for such improvement petition the council to make the same, such improvement shall not be made unless a majority of five-sevenths of all the members of the council by vote authorize the making of the same.

**§ 9. Removal of Certain Nuisances.—SEC. 9.** The city shall have power to cause any lot of land within its corporate limits on which water at any time becomes stagnant, to be drained or filled up, and to cause vaults or cesspools upon any lot or block in the city to be cleaned when necessary, and in case of failure or refusal of the owner or owners of any such lot or block to comply with the requirements of any ordinance or resolution of the city council with reference to such matters after such notice as in such ordinance or resolution may be prescribed, the work necessary may be done at the expense of the city, and the amount of money so expended shall be assessed as a tax upon such property, and shall be collected as other assessments.

**§ 10. Establishing Grade of Streets, etc.—Appropriation of Private Property for—Street Railways.—SEC. 10.** The said city shall have power to provide by ordinance for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets and to establish the grades of all streets within the city, and to lay off, widen, straighten, name, change, extend, vacate and establish streets and highways, and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvement authorized by this section, to be applied on compensation for property so condemned or damaged, or to authorize or prevent the laying down of railway tracks and street railways on all streets or public places, and no railway track can be laid down until the injury to property abutting upon the street or public place upon which such track or railway is proposed to be located and laid down has been ascertained and compensated in the manner provided for compensation of injuries arising from regrade of streets in section 122 of this act.

**§ 11. Erection, etc., of Water Works.—SEC. 11.** The city shall have power to erect and maintain water works or to authorize the erection of the same for the purpose of furnishing the city with a sufficient supply of water, but no such works shall be erected by the city until a majority of the voters of the city, at a general or special election, or five-sevenths of the members of the city council assent thereto.

**§ 12. Extra-Territorial Jurisdiction.—SEC. 12.** The city shall have power to erect and construct or authorize the erection and construction of such water works within or without the corporate limits of the city, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works and all reservoirs, streams, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which water is taken for five miles above the point from which it is taken, and to enact ordinances and regulations necessary to carry the power herein conferred into effect.

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**§ 13. Appropriation of Private Property for Water Works.—SEC. 14.** The said city shall have power to condemn and appropriate<sup>2</sup> much private property as shall be necessary for the construction and operation of such water works, and if it shall authorize the construction and operation thereof by individuals or private corporations, it may confer by ordinance upon such individuals or corporations the power to take and appropriate property for such purposes.

**§ 14. Special Tax for Water Works.—SEC. 15.** The said city shall have power at the regular time for levying the annual taxes in any year, to levy and collect a special tax not exceeding one-half of one per centum upon the taxable property within the corporate limits of the city for the

<sup>2</sup> So.

purpose of constructing such water works: *Provided*, That no such tax shall be levied or collected for the purpose of aiding any private individual or corporation, and when such work shall have been constructed, said city shall have power to assess and collect, from time to time, in such manner as the city council may deem proper from each tenement, or other place supplied with water, such water rent as may be deemed reasonable, and at the regular time for levying taxes in each year to levy and collect, in addition to the tax already authorized by this section, a special tax on the taxable property within the city limits, sufficient with the water rents hereby authorized, to pay the expenses of operating such works, and if the right to construct, maintain and operate such water works shall be granted to private persons or a corporation by the city and the city shall contract with such person, or corporation for supply of water for such purpose, said city shall levy and collect each year a special tax sufficient to pay such water rent to such person or corporation: *Provided further*, That said tax shall not exceed in any one year one-half of one per centum upon the taxable property within the corporate limits of said city.

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§ 15. **May Adopt Proper Ordinances.**—SEC. 23. The city shall have power to adopt proper ordinances for the government of the city, and to carry into effect the power and authority given by this act, \* \* \*

§ 16. **Incidental Powers.**—SEC. 24. The city shall have \* \* \* such other power, authority and privileges not herein specially enumerated, as are incident to municipal corporations of like character and degree, not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act, according to the true intent and meaning thereof.

#### CHAPTER III.

§ 17. **Government.**—SEC. 25. The power and authority hereby given to the city by this act shall be vested in a mayor and a common council together with such other officers as are in this act mentioned, or may be created under its authority.

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§ 18. **Officers.**—SEC. 28. There shall be elected \* \* \* clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner and an assessor, who shall be officers of the corporation. \* \* \*

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#### CHAPTER VIII.

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§ 19. **Duties of Assessor.**—SEC. 65. The assessor must annually make a correct list of all the property within the corporate limits of the city, subject to taxation by the city, with the valuation thereof, and certify and return the same to the clerk, unless otherwise ordered by the council.

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§ 20. **Manner of Assessment.**—SEC. 67. The assessment must be made on the property and in the manner designated and prescribed by law for assessing property for Territorial and county taxes. But the form of the assessment roll, and the rule for ascertaining the ownership of property and in whose name it may be assessed may be prescribed by ordinance, and the time of making such assessment and the return thereof, and of applying to the council for revision thereof must be prescribed by ordinance.

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#### CHAPTER IX.

§ 21. **Ordinances.**—SEC. 74. The style of all ordinances shall be, "The City of Vancouver does ordain as follows." All ordinances and resolu-

tions or rules for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all the members of the council. No ordinance shall embrace more than one subject, and that shall be expressed in the title; and no ordinance or section thereof shall be revised or amended unless the new ordinance or section contain the entire ordinance or section revised or amended, and the ordinance or section so amended shall be repealed.

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CHAPTER X.

**§ 22. Notice of Intention to Improve, etc.: Substance and Manner of.**—SEC. 76. The city council, whenever it deems it expedient to establish or alter the grade of any street of the city, or to make any improvement thereof, as authorized by sections five, six, seven, eight, nine and ten of this act, shall cause a survey, diagram and estimate of the cost thereof to be made by the city surveyor; and the said survey, diagram and estimate shall be filed in the office of the city clerk for the inspection of all persons interested therein, and a notice of the intention to grade, pave or otherwise improve said street, and the filing of such survey, diagram and estimate shall be given by two weekly publications in the newspaper doing the city printing. Such notice must specify the street or part thereof to be improved, or of which the grade is to be altered, and the kind of improvement proposed to be made.

**§ 23. Effect of Remonstrance.**—SEC. 77. If, within ten days from the final publication of such notice, two-thirds in number of the persons owning property on said street and representing one-half of the property in said street shall file with the city clerk a remonstrance against said improvements, grade or alteration, the same shall not be further proceeded with.

**§ 24. Effect of Failure to Remonstrate.**—SEC. 78. If no such remonstrance be made and filed, as in the last section provided, the council, at its earliest convenience thereafter, and within four months from the publication of such notice, may establish the proposed grade and proceed to make the proposed improvements.

**§ 25. Manner of Appraisement and Assessment of Abutting Property.**—SEC. 79. In all cases when the council shall, by ordinance, order the improvement of any street or the alteration of the grade of any street, and the cost thereof has been duly estimated as herein provided, they shall, before proceeding with the execution of the work, cause an appraisement of the lots and land abutting on said street adjacent to said improvement, and assessable for the costs thereof, as follows: An assessor shall be appointed by the council and sworn to appraise all lots and parts of lots and lands, irrespective of the improvements or structures thereon, and the whole cost of said grade, planking, graveling or other improvements shall be assessed *pro rata* on said lots or parts thereof and lands as aforesaid, according to the assessed value thereof, which apportionment shall be made by the city council by ordinance, and a tabulated statement thereof shall be made out by the city clerk and filed in his office for the information of all persons concerned, and a notice thereof published in the newspaper doing the city printing for two weeks consecutively. Such statement shall show the owner of each lot, if known, the number of a lot or part of a lot or other land; the number of the block, if numbered, and the value of such lots, parts of lots and other land, respectively.

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**§ 26. Lien of Taxes for Improvement: How Acquired and Released.**—SEC. 81. When the tabulated statement mentioned in section 79 of this act has been approved by the council, the same shall be recorded in the office of the county auditor of the county of Clarke, in the record of liens on real property, and shall be and remain a lien on the lots, parts of lots and

lands described therein for the several sums assessed thereon, respectively, and as fast as the said several assessments are paid, the city clerk shall enter on said record of liens a release and satisfaction thereof, which release and satisfaction shall be entered in the margin of said record, opposite the lots, parts of lots or other lands so released.

**§ 27. Collection of Such Taxes.**—SEC. 82. When the city council shall have duly approved of said assessments and apportioned the cost of the improvement, it shall, by ordinance, establish the same and require the payment of said assessment within ten days from the approval thereof, and shall give notice in the newspaper doing the city printing that said assessment is due and payable to the city treasurer. The clerk shall make out and deliver to the treasurer a certified copy of said appraisal and assessment, who shall proceed to collect the same in the same manner as other city taxes are collected, except as is herein otherwise provided.

**§ 28. Warrant for Collection.**—SEC. 83. If within ten days after the publication of said last named notice the sum assessed upon any lot, part of lot or other land is not paid to the treasurer, the city council may at any time thereafter order a warrant for the collection of the same to be issued by the city clerk directed to the city marshal.

**§ 29. What Such Warrant Shall Require.**—SEC. 84. Such warrant must require the city marshal to forthwith levy upon the lot, part of lot or other land upon which the assessment is unpaid and sell the same in the manner provided by law for the sale of real estate for delinquent taxes, and return the proceeds of such sale, less his fees, to the city treasurer, and the warrant to the city clerk with his doings thereon, together with the receipt of the city treasurer for the proceeds of such sale.

**§ 30. Tax Deed: Limitation of Redemption.**—SEC. 85. The person executing such warrant shall immediately make a deed for the property sold to the purchaser, stating therein that the same is made subject to redemption as hereinafter provided. Within three years from the date of sale the owner or his successor in interest or any person having a lien by judgment, decree or mortgage on the property or any part thereof, separately sold, may redeem the same upon the terms and conditions provided in the next section.

**§ 31. Manner of Redemption.**—SEC. 86. Redemption is made by the payment of the purchase money and twenty-five per cent. additional, together with the interest upon the purchase money from the date of the sale to the time of payment at legal rate, and the amount of any tax which the purchaser may have paid upon the property.

**§ 32. Effect of Redemption.**—SEC. 87. A redemption discharges the property from the effects of the sale and from the assessment. If made by the owner or his successor in interest the estate in the property is thereby restored to such owner or successor in interest; but if made by a lien holder the amount so paid shall form part of his lien and bear the same rate of interest.

**§ 33. Effect of Sale.**—SEC. 88. A sale of real property under the provisions of this chapter conveys to the purchaser (subject to redemption) all the estate or interest therein of the owner, whether known or unknown.

**§ 34. Fees, etc., to be Collected from Property Assessed.**—SEC. 89. The fees and percentage to be allowed to the person for making the sale of property for delinquent assessment for street improvements, as provided in this chapter, shall be fixed by the council by ordinance, and shall be added to and form a part of such assessment from the time the same becomes delinquent, and shall be collected from the property assessed in the same manner as the original assessment, and in no instance shall the city be liable for such percentage, costs or fees.



**§ 35. Rate of Interest on Delinquent Taxes.—**SEC. 90. All money paid or collected upon assessment for the improvement of streets or alleys shall be kept as a separate fund, and in no wise used for any other purpose whatever; all money so assessed from the time of being entered in the record of liens, shall bear interest at the legal rate until paid.

**§ 36. If Sum Assessed Insufficient to Defray Costs, Deficiency Shall be Added.—**SEC. 91. If upon the completion of any improvement of any street or alley it is found that the sum assessed therefor is insufficient to defray the costs thereof, the city council must ascertain the deficiency and declare the same by ordinance; and when so declared the city clerk shall give notice thereof, and such deficiency shall be added to the original assessment and collected in the same manner; and when such assessment shall be in excess of the sum required for said improvement the same shall be repaid to the parties owning the property or their representatives.

**§ 37. Assessment Districts.—**SEC. 92. For the purpose of making the appraisement specified in section 79 of this act, the city council may establish assessment districts, consisting of the whole of any street or parts thereof benefited by said improvements.

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**§ 38. What Deed Shall State.—**SEC. 94. The deed to the purchaser must express the true consideration therefor, and the return of the person executing such warrant must specify the amount for which the lot or parcel of land was sold and the name of the purchaser.

#### CHAPTER XI.

**§ 39. Rate of Interest on Taxes.—**SEC. 95. Whenever any general or special tax has been levied as provided by chapter two of this act, every part thereof shall bear interest at the rate of ten per cent. per annum from the time it is due and payable until paid or collected, and shall be a lien from said time upon any real property owned by the party assessed.

**§ 40. When Taxes Become Delinquent.—**SEC. 96. The council shall provide, by ordinance, within what time all taxes levied as provided and authorized by the provisions of chapter two of this act may be paid to the treasurer, and all taxes not paid to the treasurer within such time are thereafter delinquent taxes and shall be collected as such, with interest and ten per cent. in addition as a penalty thereon.

**§ 41. Return of Roll.—**SEC. 97. Within five days from the expiration of the time limited for paying taxes to the treasurer, the treasurer shall return the tax roll to the council, distinguishing thereon the taxes paid and those remaining delinquent.

**§ 42. Warrant for Collection: Substance of.—**SEC. 98. The council, upon receiving the tax roll from the treasurer, shall order the city clerk to annex thereto a warrant, under his hand and the seal of the city, and directed to the marshal, commanding him to proceed and forthwith to collect the delinquent taxes on said roll in the manner provided by law, and pay the same to the treasurer, less his fees and the costs of collecting, and return the warrant, with his doings endorsed thereon. The clerk shall deliver such delinquent tax roll with the warrant to the marshal.

**§ 43. Force and Effect of Warrant.—**SEC. 99. The warrant for the purpose of collecting such delinquent taxes shall be deemed an execution against property and shall have the force and effect thereof against any person or corporation against whom such taxes are levied or charged on the tax roll and against their property, and shall be executed and returned in like manner, except as in this chapter otherwise provided.

**§ 44. In What Case Real Property to be Levied.—**SEC. 100. If personal property be not found whereon to levy the warrant, or if that levied

upon be not sufficient to satisfy the same, it shall be levied upon any real property of the person, firm or corporation against whom the tax is levied or charged or sufficient thereof to satisfy such warrant, including interest, fees of officers, and all expenses of sale and of executing such warrant.

**§ 45. How Levied Against Unknown Owner.**—SEC. 101. In case of delinquent tax levied upon real property in the name of an unknown owner, the warrant shall be executed by levying upon each lot, or part thereof, or other land, for the tax levied thereon, and selling the same separately.

**§ 46. Collection of Taxes Heretofore Levied.**—SEC. 102. All taxes heretofore levied by the city of Vancouver and remaining unpaid or delinquent may be collected by warrant, upon the order of the city council, from the person, firm or corporation, whether known or unknown, against whom the same is charged or levied, in the same manner and with like effect as in this chapter is provided for the collection of other delinquent taxes.

**§ 47. Tax Deed: What Shall State.**—SEC. 103. When real property is sold for delinquent taxes, the person executing the warrant shall immediately make a deed to the purchaser therefor, stating therein that the same is made subject to redemption as provided by law, and such deed shall have the effect provided in section eighty-eight of this act.

**§ 48. Redemption: Limitation and Manner of.**—SEC. 104. Real property sold for delinquent taxes, as provided for in this chapter, may be redeemed by the owner or his successor in interest, or any person having a lien of any kind thereon, or any part thereof separately sold, within three years from the date of the deed therefor, and upon the terms and conditions and with the effect provided in chapter ten of this act, in the case of the sale of real property for delinquent assessments for the improvement of streets; and such delinquent tax may be paid by such lien creditors in the same manner and with like effect as a delinquent assessment, as provided in sections eighty-six and eighty-seven of this act.

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**§ 49. Return of Warrant, etc.**—SEC. 107. The council may provide by ordinance within what time a warrant for the collection of delinquent taxes must be returned, and may order an alias warrant to issue for the collection of any such taxes not made on a previous one. All costs and charges for the collection of delinquent taxes must be made on the warrant and collected as a part of the tax. The council may prescribe by ordinance the fees and compensation for collecting delinquent taxes, but the same shall in no case be paid out of the city treasury.

**§ 50. What Property is Subject to Levy.**—SEC. 108. All property subject to levy and sale on execution is subject to levy upon a warrant for the collection of delinquent taxes, and also all property subject to assessment for taxes, as provided by this act, whether the same be exempt from execution or not. \* \* \*

#### CHAPTER XII.

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**§ 51. Actions Concerning Assessments, Etc.: Discretion of Council.**—SEC. 114. In any action, suit or proceeding in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith shall be presumed to be regular and duly taken until the contrary is shown; and when any proceeding, matter or thing is, by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and can not be reviewed or called in question elsewhere.

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**§ 52. What Shall Not be Necessary to Recite in Deed.—SEC. 116.** In making a deed for real property sold for delinquent taxes it shall not be necessary to recite or set out the proceedings prior to the sale, but it shall be sufficient if it substantially appear from such deed that the property was sold by virtue of a warrant from the city for delinquent taxes, and the amount thereof, together with the date of the sale and the amount paid therefor by the purchaser. The warrant for the collection of delinquent taxes shall be and run in the name of the city of Vancouver.

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**§ 53. Assessment of Acreage.—SEC. 118.** All real property within the limits of the city not laid off in blocks or lots at the time of making any assessment authorized by this act, must be assessed at its cash value per acre or fractional part thereof, as the case may be.

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**§ 54. Petition for Improvement.—SEC. 120.** No street or highway shall be extended, widened, altered or vacated except on petition to the common council, signed by a majority of the resident owners of real estate in or through which such street or highway is proposed to be extended, widened or vacated, or unless at a regular meeting of the council at least five members vote in favor of the same.

**§ 55. Appraisement and Settlement of Damages for Establishing Grade of Streets.—SEC. 121.** When the grade of any street or highway shall have been established by authority of the city and any person or persons shall have built or made improvements on such street or highway and the city shall afterwards change the established grade, or shall change the boundary lines of any block, street or highway in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage, and when the parties injured are unable to agree with the city council, as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two so appointed, or in case of their disagreement, by the city council; said appraisers shall be sworn to faithfully execute their duties, according to the best of their ability. They shall view the premises and receive any legal evidence, and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment. They shall assess the damages sustained over and above the additional value of the property, by reason of the change or improvement. They shall sign their report and deliver the same to the clerk of the district court of the county or district embracing the city, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final, and the city shall pay the amount so assessed, and upon motion, the party entitled shall have judgment entered therefor. If the damages so assessed be excessive or insufficient the clerk of the district court having said assessment, upon the written request of the city, or any person considering himself aggrieved, filed with him within said twenty days, enter the case upon the trial docket for the next term of the said district court. The party claiming damages shall be the plaintiff, and the city shall be the defendant. The usual pleadings in a civil action may be filed, and such special pleadings as the court may allow, and the issues thus formed shall be tried as other civil actions in said court. The costs shall be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the said action has been tried at the instance of the city for the purpose of reducing the amount of damages, and the damages are not so reduced, otherwise the costs shall be taxed against the party claiming damages.

**§ 56. Appraisement and Settlement of Damages for Appropriation of Private Property.—SEC. 122.** When private property shall have been

condemned, and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, as provided in section ten of this act, the assessment upon the various lots, parts of lots or parcels of land so charged and the appraisement of damages to be paid to the owner of the property condemned, shall be made by three disinterested persons, one of whom shall be appointed by the common council, one by the owner or owners of property subject to assessment, and one by the owner or owners of the property condemned or damaged, or if either or both of said classes of property owners fail or refuse to make such appointment of appraisers after ten days' notice, in writing, so to do, which notice shall be given in the manner prescribed in the ordinance providing for such condemnation of property, either or both such appointments may be made by the common council. The persons so appointed shall be sworn to discharge the duties of their appointment faithfully and impartially, by any officer authorized to administer oaths, and shall proceed in making the assessments, and shall report within the time and in the manner prescribed for appraisers in the preceding section. Their award shall be final unless objection is made within twenty days from the time of the return thereof, to the clerk of the district court. Any party aggrieved by the award may, upon filing a notice thereof, have the case docketed for trial at the next term of said court. When the issue in such cases is between an owner or owners of property condemned or damaged and the city, such party shall be the plaintiff and the city shall be defendant; and when the issues to be tried relate to excessive or unfair assessment upon property, the city shall be plaintiff and the owner of the property defendant. The issues shall be made up, the case tried and determined, and the costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city, all costs of appraisements and other proceedings under this section, shall be added to the gross amount to be raised by assessment and collected from the several property holders in the same proportion as said gross amount, and said assessments and costs shall be a lien upon the property therewith charged.

**§ 57. Manner of Appropriation in Other Cases.**—SEC. 123. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of the Territory relating to the mode of proceeding to appropriate lands by private corporations.

\* \* \* \* \*

**§ 58. Collection of Taxes Heretofore Levied.**—SEC. 126. All taxes heretofore levied by the city of Vancouver, and remaining unpaid or delinquent, shall be paid to the city of Vancouver, as in this act provided for the payment of taxes, and such taxes may, by order of the common council, be collected from the person, firm or corporation, whether known or unknown, against whom the same was assessed, levied or charged by warrant, in the same manner and with like effect provided in this act for the collection of delinquent taxes.

\* \* \* \* \*

**§ 59. Effect of Ordinances Heretofore Adopted.**—SEC. 128. All valid ordinances of the city of Vancouver, when this act takes effect, shall be and remain in full force after this act takes effect, and until the same are repealed, and all rights vested and liabilities incurred when this act takes effect, shall not thereby be lost, impaired or discharged.

\* \* \* \* \*

CHAPTER XXIII.—CITY OF WAITSBURG.

No. 800†.—AN ACT TO INCORPORATE THE CITY OF WAITSBURG.<sup>1</sup>

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Waitsburg shall be bounded as follows, to wit: Commencing at the north-east corner of section fourteen (14); thence running north one hundred and sixty (160) rods; thence running west on a line parallel with the section lines four hundred and eighty (480) rods; thence running south two hundred and forty (240) rods; thence running east four hundred and eighty (480) rods; thence running north eighty (80) rods to the place of beginning; the same being situate in township No. nine (9) north, of range thirty-seven (37) east, of Willamette meridian, and in Walla Walla county, in the Territory of Washington.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Waitsburg within the limits above described shall be and they are hereby constituted a body politic and corporate in fact and in law by the name and style of the "City of Waitsburg," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity; and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold real property beyond the limits of the city to be used for burial purposes; also for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also for work-houses or houses of correction; also for the erection of water works to supply the city with water; and may sell, lease or dispose of the same for the benefit of the city, and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

ARTICLE II.

§ 3. **Government.**—SECTION 1. The government of the city shall be vested in a mayor and a common council consisting of five members, who shall be elected by the qualified voters of said city, and shall hold their offices until ten days after the next annual election, and until their successors shall be elected and qualified.

§ 4. **Officers.**—SEC. 2. There shall be appointed \* \* \* a city marshal, a city recorder who shall be *ex-officio* city assessor, \* \* \*

ARTICLE III.

\* \* \* \* \*  
§ 5. **Duties of Assessor.**—SEC. 2. The recorder shall, \* \* \* as *ex-officio* assessor, within such time as shall be by ordinance provided, make out and return to the common council a correct list of all the taxable property within the limit of the city, with the valuation thereof and the names of the persons liable to be taxed therefor. The mode and manner of making out said list, ascertaining the value of the property and collecting the taxes shall, as nearly as may be practicable, be the same as that prescribed by law for assessing and collecting Territorial and county taxes; and he shall, as such assessor, discharge such other duties as may by ordinance be prescribed. \* \* \*

<sup>1</sup> Approved Nov. 25, 1881. (See Eighth Blen. Sess. 1881, p. 138.) All conflicting acts and parts of acts repealed. In effect from date.



## ARTICLE VI.

§ 6. **Powers of the Council.**—SECTION 1. The mayor and common council shall have power within the limits of the city— (1) To make all needful by-laws, ordinances and city regulations not repugnant to the constitution or laws of the United States or this Territory. (2) To levy and collect taxes, not exceeding five mills per annum, upon all property made taxable by law for county and Territorial purposes, as shown by the assessment made for Territorial and county purposes: *Provided*, That if any person or persons at any time after the annual assessments shall commence the sale or barter of goods, wares or merchandise within said city, such person or persons shall be assessed and pay a tax on said goods, wares and merchandise for the balance of the year, after he shall so commence, proportioned to the amount levied or assessed for city purposes, for the year —: *Provided further*, That an additional tax, of not to exceed two and one-half mills upon said taxable property, may be levied in any one year, if such tax is voted by a majority vote of the property tax payers of the city, and the mayor and common council shall have power to call a special election for that purpose: *And provided further*, That no tax shall be levied on the value of articles, the growth and produce of this Territory, which are brought into said city and offered for sale. The mayor and common council shall also regulate by ordinance the time, mode and manner of assessing and collecting said municipal taxes. \* \* \* (14) To establish, lay out, name, alter, repair and keep open the streets and alleys of the city, and to remove all obstructions from roads, streets, alleys, side and crosswalks, and to provide for the construction, cleaning and repair of the same, as well as all sewers, gutters, watercourses, and underground drainage, and to require parties owning or occupying premises to clean and remove obstructions from streets, alleys, cross and sidewalks adjoining their property, or the premises occupied by them; and to levy a discriminating tax on persons and property particularly benefited by the construction or repair of streets, side and cross walks, sewers, gutters and drains, either with or without a general tax for general benefit of such works, and take<sup>2</sup> shall have power to purchase or condemn and enter upon and \* any lands within or without its territorial limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and shall have entire control of all such buildings, and all lands purchased or condemned under the provisions of this section. \* \* \* (18) To provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks or streets and to establish the grades of such streets. \* \* \* (20) To prescribe the manner of building party walls and fences. \* \* \*

\* \* \* \* \*

## ARTICLE VIII.

\* \* \* \* \*

§ 7. **Ordinances Heretofore Enacted.**—SEC. 6. All ordinances and regulations of the inhabitants of the town of Waitsburg in force when this act goes into effect shall be and the same are hereby declared to be legal and valid, and shall be and remain in full force after this act takes effect, and shall be and the same are hereby declared to be legal and valid, and shall be and remain in full force after this act takes effect, and until the same are repealed by the board of common council of the city of Waitsburg; and all rights vested and liabilities incurred under said corporation of the inhabitants of the town of Waitsburg, or any ordinance

<sup>2</sup> They.

\* Take.

of said inhabitants of said town when this act takes effect, shall not thereby be lost, impaired or discharged.

§ 8. **Right of Repeal.**—SEC. 7. This act may be amended or repealed at the pleasure of the legislature.

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**No. 800†.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF WAITSBURG." <sup>1</sup>**

CHAPTER I.

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. That the corporate limits of the city of Waitsburg, and the boundaries thereof, shall be as follows: Beginning at the northeast corner of section fourteen (14), township nine (9) north, of range thirty-seven (37) east, Willamette meridian, running thence north on the section line between sections eleven (11) and twelve (12) in said township one hundred and sixty (160) rods; thence at right angles west four hundred (400) rods; thence at right angles south two hundred and forty (240) rods; thence at right angles east four hundred (400) rods; thence at right angles north eighty (80) rods, to the place of beginning.

CHAPTER II.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Waitsburg within the limits above described shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Waitsburg," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real and personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city, may purchase, acquire, receive and hold real property beyond the limits of the city, to be used for burial purposes; also for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also for workhouses or houses of correction; also for the erection of water works to supply the city with water, and may sell, lease or dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

§ 3. **General Powers of Taxation.**—SEC. 3. The city of Waitsburg has power to assess, levy and collect taxes for general municipal purposes, not to exceed one-half of one per centum per annum, upon all property, both real and personal within the city, which is by law taxable for Territorial and county purposes, and to levy and collect special taxes, as hereinafter provided; but all taxes for general and special municipal purposes shall not exceed in any one year one-half of one per centum on the property assessed: *Provided however,* That the above limitations shall not apply to local assessments in assessment districts.

§ 4. **Protection from Fire: Taxation for.**—SEC. 4. The city of Waitsburg shall have power to make regulations for prevention of accidents by fire. To organize and establish fire departments, and shall have control thereof and ordain rules for the government of the same; to provide fire engines and other apparatus, and a sufficient supply of water, and to levy and collect special taxes for these purposes, not to exceed in any year one-tenth of one per centum upon the taxable property within the city;

\* \* \*

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Blen. Sess. 1885-86, p. 273.) In effect from date.

**§ 5. Regulation and Control of Additions to the City.—**SEC. 5. The city of Waitsburg may regulate and provide as to the manner in which all lands and additions to the city shall be subdivided into lots, blocks, streets and alleys, and the width, distance apart and direction of each street and alley, and the manner in which a plat shall be made thereof, and when filed and the kind of monuments in all parts of the city, and place and manner of erection, and maintenance thereof, to prevent mistakes and confusion of boundaries, and may cause an official map of said city to be made and kept for public inspection, which plat certified by the city surveyor shall be *prima facie* evidence that the lines as they thereon appear are correct; and all surveys made by the city surveyor whatever, at the instance and expense of the city or private parties, shall be official surveys, and a minute thereof shall be kept by the city surveyor as a part of his official records, and shall be *prima facie* evidence of their own correctness, and the city has power to enforce this by ordinance and to compel the establishment and maintenance of such monuments and to fine or imprison, or both, for violation thereof; and when the boundary or existence of any public street, alley, easement or square is in doubt, and the land claimed by a private party, the city may file a bill in equity to determine the right thereto.

**§ 6. Appropriation of Private Property for Streets, etc.: Taxation for—Conveyances.—**SEC. 6. The city of Waitsburg has power to purchase or condemn and enter upon and take any lands within its territorial limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any proper and legitimate municipal purpose, and to enclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes, not exceeding one-fifteenth of one per cent. in any year. The city shall have entire control of such buildings, and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares, and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power to regulate and improve the same, and in case such lands are deemed unsuitable or insufficient for the purpose intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and causes of said city and the public existing prior to such conveyance; but when such lands are so disposed of and conveyed, enough thereof shall be reserved for streets to accommodate adjoining property owners.

**§ 7. Lighting the Streets, etc.: Taxation for.—**SEC. 7. The said city of Waitsburg has power to provide for the lighting of streets and furnishing the city with lights, and for the erection or construction of such works as may be necessary and convenient therefor; and has power to levy and collect for these objects a special tax, not exceeding one-fifteenth of one per centum per annum upon the taxable property within the limits of the city for the benefit of such lights.

**§ 8. Opening, Improving, etc., Streets, etc.: Taxation for.—**SEC. 8. The said city of Waitsburg shall have power to provide for clearing, opening, ornamenting, vacating, graveling, improving and repairing the streets, highways and alleys, to gutter the same, and to construct and repair sidewalks, and build bridges and to prevent the obstructing thereof, and to remove all obstruction therefrom, or from any cross or sidewalk; also to regulate cellar ways and cellar lights, or sidewalks within the city; and to provide for clearing the streets, and to establish the grade thereof; also for constructing sewers and cleaning and repairing the same; and have power to assess, levy and collect, each year, a road poll tax of not less than two nor more than four dollars on every male inhabitant of the

city between the ages of twenty-one and fifty years, except actual and exempt members of the fire department, and except persons that are a public charge; also a special tax on property of not less than two nor more than five mills on every dollar's worth of property within the city; which taxes shall be expended for the purpose specified in this section, and there shall not be levied or collected by the county of Walla Walla or the officers thereof, any road tax or road poll tax upon the property or inhabitants within the said city.

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**§ 9. Water, Railway and Other Companies.—**SEC. 10. The said city of Waitsburg is hereby authorized to grant the right to the streets of said city for the purposes of laying gas and other pipes intended to furnish the inhabitants of said city with light or water, to any persons or association of persons for a term not exceeding twenty-five years, and to authorize or forbid the location and laying down of tracks for railways and street railways, telegraph and telephone appliances, on all streets, alleys and public places; but no railway track can be thus located and laid down until after the injury to streets, alleys and to property abutting upon the streets, alley or public place upon which such track is proposed to be located and laid down has been ascertained and compensated in the manner provided for compensation for private property taken for public use by said city in this act: *Provided always*, That none of the rights or privileges herein granted shall be exclusive, nor prevent the council from granting the same right to others.

**§ 10. Maintenance of Water Works—Extra-Territorial Jurisdiction, etc.—**SEC. 11. The said city of Waitsburg shall have power to erect and maintain water works within or without the city limits, or to authorize the erection of the same, for the purpose of furnishing the city, or the inhabitants thereof, with a sufficient supply of water, and maintain and protect the same from injury, and the water from pollution, and its jurisdiction shall extend over the territory occupied by such works, and all reservoirs, streams, springs, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken within its corporate limits above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect; but no water works shall be erected by the city until two-thirds of the voters, who shall be those only who are freeholders in the city, or pay a property tax therein on not less than five hundred dollars worth of property, shall at a general or special election vote for the same. Such proposition shall be formulated and submitted not less than thirty days before such election.

**§ 11. Appropriation of Private Property for Water Works.—**SEC. 12. Said city of Waitsburg is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works, and shall have power to purchase or condemn water works already erected or which may be erected, and may mortgage or hypothecate the same to the persons from whom the same may be purchased, the payment of the purchase price thereof; said city shall have power to regulate and sell the water thus brought therein, and the moneys arising therefrom shall constitute a fund to be used to defray the expenses of operating the same, and to pay the purchase price thereof, and said city may levy and collect a special tax each year until the necessity therefor ceases to exist, not to exceed two-tenths of one per centum: *Provided, however*, No such tax shall be levied or collected until the question has been submitted, as provided in section eleven (11) of this act, to electors as therein named, and two-thirds thereof at an election shall favor the same.

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**§ 12. Protection From Floods, etc.: Taxation for.**—SEC. 21. The said city of Waitsburg shall have power to protect that city and the inhabitants thereof, from the floods of the Touchet river and other streams, and to that end may prescribe the width between the banks, prevent obstructions therein and cause the same to be removed therefrom; prescribe the place where embankments shall be made and the nature thereof, and prescribe the duties of the owners of the abutting land or shore of said river or streams as to putting in and maintaining protections against the overflow or washing thereof; and in case said duty is not performed the city may construct such protection wholly at the expense of the city or at the expense of said owners of abutting property to the extent of ten per cent. of the assessed value of said abutting property, and abutting property is all property within seventy-five feet of said river or streams.

**§ 13. May Adopt Proper Ordinances.**—SEC. 22. The said city of Waitsburg shall have power to adopt proper ordinances for the government of the city and to carry into effect the powers given by this act,  
\* \* \*

**§ 14. Manner of Assessment of Abutting Property.**—SEC. 23. The said city of Waitsburg shall have power to determine and prescribe the amounts which abutting property shall pay for any improvements in this charter mentioned to the extent of ten per cent. of the value of said property; which amounts are hereby denominated a special tax.  
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#### CHAPTER VI.<sup>2</sup>

**§ 15. Certain Ordinances Prohibited.**—SEC. 25. The city of Waitsburg shall pass no ordinance which shall conflict with the constitution of the United States, the organic act or the legislative acts of Territory of Washington.  
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**§ 16. Penalty for Non-Payment of Tax Restricted.**—SEC. 27. The said city of Waitsburg shall pass no ordinance imposing a greater penalty for non-payment of tax than is provided as a penalty therefor by the laws of the Territory of Washington.  
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#### CHAPTER V.

**§ 17. Power of the Council.**—SEC. 35. The council of Waitsburg is hereby invested with all legislative power necessary to provide for the enforcement of each and every power granted to the city of Waitsburg by this act, and to that end it has plenary power in all respects to as full an extent as the legislative power of the Territory of Washington, save and except wherein the power of the city is limited by the provisions of this act.  
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**§ 18. General Rule of Proceedings.**—SEC. 37. When a mode of action is prescribed in this act proceedings shall conform to such mode as nearly as practicable; but in case that any step is omitted to make such mode effectual it may be supplied by ordinance, and where no mode is prescribed by this act the council may adopt such mode as it may deem proper.  
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#### CHAPTER VII.

**§ 19. Duties of Treasurer.**—SEC. 45. The treasurer of the city of Waitsburg shall keep his office in the city limits. He shall receive and

<sup>2</sup> Chapter III.



safely keep all moneys of the city, including all city taxes. He shall be receiver of all city taxes, and during the time the tax roll is in his hands he shall keep his office open at all reasonable hours for the receipt of taxes, and when paid shall receipt therefor; and when it is made evident to him by affidavits that a person has been charged for taxes which he is not legally bound to pay, he shall receive such affidavits and report the same with his recommendation to the council for its action; and in case he shall be informed that any property has not been assessed for the fiscal year, or is assessed to the wrong person, he shall have power to and shall assess the same, and add the proper assessment to the assessment roll, and notify the person assessed, if in the city, and if not, by publication in a weekly newspaper of general circulation published in said city, if there be one, and if not, in one published in the county of Walla Walla and Territory of Washington nearest to the said city, for the period of fourteen days; and that fifteen days after the date of the first publication of said notice, or after the date of giving personal notice, the tax thereon shall be due and collectible as other delinquent taxes, and he shall so enter the same upon the assessment roll.

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CHAPTER VIII.

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§ 20. **Notice of Sales.**—SEC. 66. The clerk, when the tax collector makes his return, shall in accordance therewith make a duplicate list of all tax sales of real property, and keep one list himself, and certify another to the auditor of the county of Walla Walla, who shall record the same as of records of deeds, and such record shall be notice to all the world that sales have been duly made as therein appears.

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CHAPTER IX.

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§ 21. **Duties of Assessor.**—SEC. 74. The assessor shall assess all real property situated in the city, when unincumbered, to the owner thereof, if held in severalty, and if held jointly or as tenants in common, he shall assess to those owning jointly; in case less than a freehold is owned, he shall assess the estate held by each person. Community property shall be assessed to husband and wife jointly. The separate property of each married person shall be assessed to each. In case of mortgage or lien the property shall be assessed jointly against all parties having an interest therein; if held by an executor or administrator, sheriff or trustee it shall be assessed against them, and a detail list verified by any one person interested as aforesaid shall be sufficient.

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CHAPTER X.

§ 22. **Duties of Tax Collector.**—SEC. 80. The tax collector of the city of Waitsburg, when he shall receive the assessment roll and blank receipts for poll and road poll taxes from the city clerk, shall have the power and it shall be his duty to collect all delinquent taxes due the city, and the assessment roll shall be sufficient warrant and authority for him to do so, by distress and sale of property, in all respects as the county sheriffs in the Territory of Washington can by law do in collecting delinquent county taxes.

§ 23. **General Laws Shall Govern Levy.**—SEC. 81. The tax collector, in levying upon and distraining property for city taxes, shall be governed by the same rules as the county sheriffs in the Territory of Washington are governed in levying upon and distraining property for county taxes; and in addition thereto, has power to levy a distress upon the property of any debtor of any delinquent tax payer, not exceeding the amount of the tax and the debt due.

§ 24. **Correction of Errors, etc.**—SEC. 82. The tax collector shall have power, in case he shall find that property has escaped proper assessment by the assessor and treasurer, to and he shall assess the same property and add the assessment to the assessment roll.

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§ 25. **General Law Shall Govern Sales.**—SEC. 85. The tax collector, in making sale of property levied upon for taxes, shall follow the same rules as govern the county sheriffs under the laws of the Territory of Washington in the sale of property for taxes as to the mode of giving notice and manner of sale; but the place of sale shall be in the city, and the time may be fixed by ordinance.

§ 26. **City May Become Purchaser.**—SEC. 86. Property sold for city taxes may be bid in by the city, but the real property so sold shall be subject to assessment and tax as before until the time of redemption is past.

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§ 27. **Redemption: Limitation of.**—SEC. 89. The sales of real property shall convey all the title which the taxpayer had to the property at the time the assessment was made, subject to the conditions subsequent that the owner of the property shall pay the amount bid on the sale, with interest thereon at the rate of two per cent. per month from date of sale to date of payment, on or before two years from the date of sale, and if the same is not paid then the title of the purchaser shall become absolute.

§ 28. **Extent of Title Conveyed.**—SEC. 90. In case the real property sold for taxes has been mortgaged, such sale shall convey all the title of the mortgagor and mortgagee, subject to redemption as aforesaid by either or both.

§ 29. **Certificate of Sale.**—SEC. 91. When land sold for taxes is redeemed as aforesaid, the person redeeming shall be entitled to the certificate of sale, and if he file the same with the county auditor of Walla Walla county, with his oath attached that he has redeemed the same, then the auditor shall record the same, and such record shall be notice to all the world that the redemption is made, and the tax sale becomes void.

§ 30. **Certificate of Collection.**—SEC. 92. The tax collector, at the time he shall make his return of assessment roll, shall certify that he has used due diligence to collect the taxes thereon, and all poll and road poll taxes due the city, and shall also certify to each sale of real property that he has made, and to what persons, and at what price; and as to any tax still delinquent, he shall certify to the facts which disabled him from collecting the same; and he shall further certify that he has given such receipt as the city clerk delivered to him in blank, and charged him with for all poll tax and road poll tax collected by him, and return to the clerk the blank receipts not used by him, and if he does not do so to state in writing under oath why he does not.

#### CHAPTER XI.

§ 31. **Rule for Assessment, etc.**—SEC. 93. The rule for the assessment, levy and collection of taxes shall be as provided in the provisions of this act as to assessor, clerk, treasurer, tax collector and council on that subject, but the council may modify, change or ordain different rules, or supplement said rules by ordinance.

§ 32. **Time and Place.**—SEC. 94. The time and place when any act is to be performed, and the duties of all officers as to assessments and taxes, may be as prescribed by ordinances.

§ 33. **Creation of Officers.**—SEC. 95. Officers and agents for the collection of taxes may be created by ordinance, and they shall qualify as ordinances provide; and all offices may be filled by the council, except city treasurer.

§ 34. **Land and Improvements.**—SEC. 96. Land may be assessed and taxed separate from the improvements thereon.

§ 35. **Actions Concerning Taxes, etc.**—SEC. 97. The city may elect to bring a civil action for the recovery of any tax, and may attach and garnishee and cause debtors of taxpayers to appear and answer as in other civil actions, and a judgment therefor shall have the same effect and execution issue thereon in the same manner as in other civil actions.

§ 36. **Judgment, etc.**—SEC. 98. In actions for the recovery of city tax, it shall be sufficient to state in the complaint the amount due from the taxpayer for the taxes in a certain fiscal year, and evidence that the taxpayer owned property taxable during that year, shall be sufficient for the court to enter judgment for the amount of taxes which would be due, according to the assessment and tax levy of that year, on other property, and no plea of want of assessment or defective assessment or return or omissions of any officer or body to perform its duty shall be a defense, and no evidence shall be admitted of the truth of such plea.

§ 37. **When Action May be Brought.**—SEC. 99. A civil action may be brought as aforesaid when it has not been discovered that property taxable has not been properly given in, and hence the assessment has not been sufficient, or when by act of the taxpayer the valuation has been too low.

\* \* \* \* \*

#### CHAPTER XVII.

§ 38. **Ordinances.**—SEC. 123 [124]. Each ordinance of the city of Waitsburg shall embrace one general subject only, and that must be embraced in its title, and each ordinance must be numbered in its order.

§ 39. **Style of Ordinance.**—SEC. 124 [125]. The enacting clause of each ordinance shall be, "Be it ordained by the city of Waitsburg," and each resolution, "Be it resolved by the city of Waitsburg."

\* \* \* \* \*

#### CHAPTER XVIII.

\* \* \* \* \*

§ 40. **Assessment of Abutting Property.**—SEC. 135 [136]. The improvement of streets, sidewalks, sewers and bridges, when not made from the proceeds of the general fund or road fund of the city, shall be made upon assessment of the land abutting the improvement exclusive of improvements on the land, save and except in cases where the improvement of the street has been voluntarily made by owners of abutting property on each side of the property of some one person when the city may notify the person to make improvements, abutting his property, equal to and to correspond with the improvements opposite said adjoining property, and unless such person shall comply with such notice the city may make the improvements and recover the costs thereof from the abutting property.

§ 41. **Construction of Words.**—SEC. 136 [137]. All words used in this act denoting sex shall be construed to include either the masculine, feminine or neuter gender in order to make the same applicable to all persons, natural or artificial, and words singular or plural shall indicate either, according to the subject matter to which they are applied, and the word streets shall include all ways of every description.

\* \* \* \* \*

§ 42. **Construction of This Act.**—SEC. 138 [139]. This act shall not be strictly construed as in derogation of the common law, but shall be liberally construed so as to make every grant of power effective according to the intent of this act.

§ 43. **Acts, etc., Under Former Charter.**—SEC. 139 [140]. This act shall continue the existence of the city of Waitsburg, leave in force all the acts done under the former charter, and all the ordinances of said

city until repealed, and shall continue in office all the officers of said city until the officers elected at the next annual election shall qualify and enter into office.

\* \* \* \* \*

§ 44. **Control Over Additions.**—SEC. 142 [143]. Whenever any addition to said city shall be platted and recorded in the office of the county auditor of Walla Walla county as required by law, then and in that case the city of Waitsburg shall have power by ordinance to include such addition within the corporate limits thereof: *Provided always*, That such addition is joined to the already established boundaries of said city.

\* \* \* \* \*

§ 45. **Repealing Clause.**—SEC. 144 [145]. All acts and parts of acts relating to the incorporation of the city of Waitsburg, and not herein reserved and continued, are hereby repealed.

\* \* \* \* \*

## CHAPTER XXIV.—CITY OF WALLA WALLA.

### No. 801.—AN ACT TO INCORPORATE THE CITY OF WALLA WALLA.<sup>1</sup>

#### ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the city of Walla Walla shall be bounded as follows, to wit: That portion of land known and designated upon the surveys of the United States, in the Territory of Washington, as the southwest and southeast quarters of the southwest quarter of section number twenty, in township number seven, north of range number thirty-six east, Willamette meridian.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Walla Walla, within the limits above described, shall be and they are hereby constituted a body politic and corporate, in fact and in law, by the name and style of the "City of Walla Walla," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and in all actions whatsoever; may purchase, hold and receive property, real and personal, within said city for public buildings and city improvements; may lease, sell and dispose of the same for the benefit of the city; may purchase, hold and receive property, real and personal, beyond the limits of the city, to be used for burial purposes; also, for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also, for work houses or houses of correction; also, for the erection of water works to supply the city with water; and may sell, lease and dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

#### ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. The government of said city shall be vested in, first, a mayor; second, a recorder; third, a common council, consisting of five members, who shall severally hold their offices until the next annual meeting after their election, and until their successors shall be qualified. There shall also be elected at the same time, a city marshal, city assessor, city treasurer and city surveyor; \* \* \*

<sup>1</sup> Passed Jan. 11, 1862. (See Ninth Reg. Sess. 1861-62, p. 16.)

ARTICLE III.

\* \* \* \* \*

§ 4. **Duties of Assessor.**—SEC. 6. It shall be the duty of the assessor, in addition to the duties that may be prescribed to him by the common council, to make out, within such time as the common council shall order, a correct list of all the property taxable by law within the limits of said city, with the valuation thereof, which list, certified to by him, shall be returned by him to the common council; the mode of making out said list and ascertaining the value of said property, and collecting all taxes, shall be the same as that prescribed by the law for assessing and collecting the Territorial and county taxes.

\* \* \* \* \*

ARTICLE V.

\* \* \* \* \*

§ 5. **Powers of the Council.**—SEC. 3. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or to the laws of this Territory. (2) To levy and collect taxes, not to exceed one-half of one per cent. per annum, upon all property made taxable by law for county and Territorial purposes. \* \* \* (18) To remove all obstructions from the side and crosswalks, and provide for the construction, cleaning and repair of the same, as well as all gutters, sewers, watercourses and underground drainage. \* \* \* (21) To grade, pave, plank, or otherwise improve, clean and keep in repair streets and alleys. \* \* \* (23) To regulate and prescribe the manner of building partition walls and fences. \* \* \* (26) To provide for the collection and receiving by said city of all moneys authorized by law, or which may be authorized to be assessed and collected for school purposes within said city, \* \* \*

\* \* \* \* \*

§ 6. **Style of Ordinances.**—SEC. 7. The style of the city ordinances shall be as follows: "The people of the city of Walla Walla do ordain as follows."

\* \* \* \* \*

ARTICLE VII.

\* \* \* \* \*

§ 7. **Right of Repeal.**—SEC. 8. The legislature may at any time alter, amend or repeal this charter.

§ 8. **Repealing Clause.**—SEC. 9. All laws and parts of laws heretofore passed and now in force in this Territory in anywise conflicting with the provisions of this act, be and they are hereby repealed so far as they shall affect this act.

\* \* \* \* \*

**No. 801½.—AN ACT TO AUTHORIZE THE CITY COUNCIL OF THE CITY OF WALLA WALLA TO LEVY AN EXTRA TAX TO REMOVE OBSTRUCTIONS FROM STREETS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the city council of the city of Walla Walla, Washington Territory, be and are hereby authorized and empowered to levy an extra tax, not exceeding five mills on the dollar, for the purpose of removing buildings and other obstructions from the cross streets of said city.

\* \* \* \* \*

<sup>1</sup> Passed Dec. 23, 1862. (See Tenth Reg. Sess. 1862-63, p. 53, Local Laws.) In effect from date.



**No. 802.—AN ACT CONFERRING CERTAIN POWERS ON THE CITY OF  
WALLA-WALLA, W. T.<sup>1</sup>**

**§ 1. Settlers on Certain Lots Entitled to Deeds.**—SECTION 1. *Be it enacted, etc.,* That the city of Walla-walla in the Territory of Washington be and is hereby authorized and empowered to grant, make and execute deeds of conveyance, possession and ownership to all persons holding and occupying lots in said city within its corporate limits who shall have acquired a right thereto by having located or built upon or so fenced and improved such lots as to have complied with the regulations in regard to locating town lots in said city passed by the board of county commissioners of Walla-walla county, or with the subsequent ordinance of the city of Walla-walla regulating the manner of locating and holding lots in said city, and also to all persons who shall have bought the right to such lots from persons lawfully claiming and holding as aforesaid.

**§ 2. Effect of Deed.**—SEC. 2. Such deeds shall be drawn and executed as a warranty against all claimants and shall vest the ownership of such lots in fee simple in the person to whom the deed shall be executed.

**§ 3. Limitation of Claim—Notice and Manner of Proofs Required.**—SEC. 3. The common council of said city shall have power to prescribe by ordinance the proofs necessary to be made and the manner of making such proofs as may be necessary to entitle persons to receive deeds, and may in the same manner fix the time when applications for deeds shall be made, and may limit such time to a period not less than thirty days after such ordinance shall have been published in some newspaper published in said city: *Provided,* That a notice requiring claimants to present their claims shall be published three months, and all non-residents holding and claiming lots as aforesaid shall have three months from the date of such notice in which to present their claims for deeds.

**§ 4. Sale of Lots Unclaimed.**—SEC. 4. The common council aforesaid shall have power to sell, lease or otherwise dispose of any and all lots within the corporate limits of the city aforesaid (defined in section one of the act of incorporation of said city), for which no application for a deed or deeds thereto shall have been made as hereinbefore provided, the proceeds of which shall be paid into the city treasury as other city revenue.

\* \* \* \* \*

**§ 5. How Deeds Shall be Executed.**—SEC. 6. All deeds shall be signed by the mayor and president of the common council and shall be attested by the city clerk, who shall affix the seal of the city to such deed, and no acknowledgment shall be necessary to render such deed valid.

**§ 6. Power of City to Warrant Title.**—SEC. 7. If any lot or lots shall be claimed by more than one person, the common council shall have power to execute a deed warranting and defending such property against the United States and the city of Walla-walla, and if any person shall receive a deed of such a nature, and shall subsequently be deprived of the property so deeded by any person holding a prior right or with whom a suit may be pending at the time such deed is executed, he shall be entitled to recover the amount paid for such deed from the person who shall gain ownership of such property.

**§ 7. Basis for This Act.**—SEC. 8. This act is passed in conformity with the provisions of the act of congress, passed May 23, 1844, entitled "An act for the relief of the citizens of towns upon the lands of the United States under certain circumstances."

\* \* \* \* \*

<sup>1</sup> Approved Dec. 11, 1866. (See Tenth Bien. Sess. 1865-66, p. 153.) In effect from date.

**No. 803.—AN ACT TO AUTHORIZE THE CITY COUNCIL OF THE CITY OF WALLA WALLA TO LEVY AN EXTRA TAX TO BUILD AN ENGINE HOUSE.<sup>1</sup>**

§ 1. **Amount of Tax.**—SECTION 1. *Be it enacted, etc.*, That the common council of the city of Walla-walla, Washington Territory; be and they are hereby authorized to levy a special tax of five mills on the dollar for the year A. D. 1865, for the purpose of building an engine house in said city.

§ 2. **Manner of Collection.**—SEC. 2. The said tax shall be assessed and collected in the same manner as other city taxes.

\* \* \* \* \*

<sup>1</sup> Approved Jan 11, 1865. (See Twelfth Reg. Sess. 1864-65, p. 79.) In effect from date.

**No. 804.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT CONFERRING CERTAIN POWERS ON THE CITY OF WALLA-WALLA, W. T." <sup>1</sup>**

§ 1. **Limitation of Claims.**—SECTION 1. *Be it enacted, etc.*, That section three of the act to which this act is amendatory, passed December 9, 1865, be and the same is hereby amended and shall be so construed and executed as to allow all non-residents, minor heirs, executors or administrators of estates at least one year in which to present their claims for lots, after notice requiring such claims to be filed shall have been published, and no sales or other disposals of lots claimed by such parties shall be made until the expiration of that time.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 9, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 155.) In effect from date.

**No. 805.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF WALLA WALLA," PASSED JANUARY 11, 1862.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That section first of said act be and the same is hereby amended so as to read as follows, to wit: "That the city of Walla-walla shall include in its limits all of the southwest quarter of section number twenty, in township number seven of range number thirty-six east of the Willamette meridian, in the county of Walla-walla and Territory of Washington.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 8, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 183.) In effect from date.

**No. 806.—AN ACT TO EMPOWER THE COMMON COUNCIL OF THE CITY OF WALLA WALLA TO PURCHASE A STEAM FIRE ENGINE AND TO LEVY A SPECIAL TAX TO PAY FOR THE SAME.<sup>1</sup>**

§ 1. **Amount of Tax.**—SECTION 1. *Be it enacted, etc.*, That the common council of the city of Walla Walla be authorized and empowered to borrow the sum of four thousand dollars, and to levy annually a special tax of not more than four mills on the dollar of all the taxable property within the corporate limits of said city subject to taxation, to be collected in the same manner and at the same time that other municipal taxes are collected and paid; the proceeds of said special tax to be kept apart from the general funds of said city of Walla Walla and to be applied exclusively to the payment of the principal and interest of said loan: *Provided*, That

<sup>1</sup> Approved Nov. 25, 1869. (See Second Blen. Sess. 1869, p. 460.) In effect from date.

a majority of the legal electors of said city shall vote for said tax at a special election to be held for that purpose as hereinafter provided.

\* \* \* \* \*

§ 2. **To be Submitted to Vote.**—SEC. 3. Before said tax shall be levied, the common council of said city of Walla Walla shall give notice of not less than ten nor more than twenty days, by publication in some newspaper published in said city, that a special election will be held in said city, setting forth the time at which said election will be held and the purpose of the same.

\* \* \* \* \*

§ 3. **When Council Authorized to Levy.**—SEC. 5. The objects to be voted for at said special election shall be "for the tax," or "against the tax." If a majority of the legal votes of said city of Walla Walla cast at said special election vote "for the tax," then the said common council shall have authority to levy said tax as specified in section one of this act.

§ 4. **Life of This Act.**—SEC. 6. This act to be in force until the proceeds of said tax shall amount to sufficient to pay said sum so borrowed with the interest to accrue thereon, as provided in section one of this act and no longer.

\* \* \* \* \*

**No. 807.—AN ACT TO CONFIRM TITLES TO REAL ESTATE IN THE CITY OF WALLA WALLA, IN WALLA WALLA COUNTY, W. T.<sup>1</sup>**

§ 1. **All Deeds Executed Declared Valid.**—SECTION 1. *Be it enacted etc.*, That all conveyances by deed which have been or which shall hereafter be made by the city of Walla Walla, in the county of Walla Walla, in the Territory of Washington, to lots or fractional parts of lots or land held in trust by said city from the United States for the several occupants thereof, under and by virtue of a patent to the same now held by said city, and under and by virtue of the laws of congress of the United States; also under and by virtue of an act of the legislative assembly of the Territory of Washington, entitled "An act conferring certain powers on the city of Walla Walla," approved December 11, 1866,<sup>2</sup> and the ordinances of said city relating thereto, be and the same are hereby declared to be good and sufficient deeds for the conveyance of the title thereto in fee simple to the several conveyees therein named, and to their heirs and assigns forever.

§ 2. **Effect of Such Deeds, When Recorded, as to Notice.**—SEC. 2. That all such deeds as are mentioned in section one of this act, whether made since or before the aforesaid patent was issued by the United States to said conveyees, and now on record, or which may be hereafter recorded in the office and records of the county auditor of said county, whether the same has been acknowledged according to law or not, shall be and the same are hereby declared to be good and valid deeds at law, and the record so made shall be and remain notice of such conveyance to all the world, and the legal title so conveyed shall inure to the said conveyees and to their assigns forever.

§ 3. **Act of 1866 Still in Force.**—SEC. 3. That said act, entitled "An act conferring certain powers on the city of Walla Walla," approved December 11, 1866, be and the same is hereby declared to be in full force and effect, and all ordinances heretofore made in pursuance of said act are hereby declared to be valid for the purposes therein expressed.

<sup>1</sup> Approved Nov. 27, 1871. (See Third Bien. Sess. 1871, p. 178.)

<sup>2</sup> See No. 802, *supra*.

**No. 808.—AN ACT TO EXTEND AND DEFINE THE CORPORATE LIMITS OF THE CITY OF WALLA WALLA.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Walla Walla shall be bounded as follows, to wit: Commencing at the northwest corner of the south half of the northeast quarter of section nineteen, township seven north, range thirty-six east; thence east one and one-half miles to section line between sections twenty and twenty-one; thence south along section line between twenty and twenty-one and twenty-eight and twenty-nine, one and one-half miles to quarter post between sections twenty-eight and twenty-nine; thence west one and one-fourth miles to U. S. military reservation to its intersection with the west line of lot four, section thirty, township seven, north of range thirty-six east; thence north to the place of beginning; including the south half of the northeast quarter and southeast quarter of section nineteen, township seven north, range thirty-six east, and south half of the northwest quarter and south half of the northeast quarter, and southwest quarter and southeast quarter of section twenty, and northeast quarter and northwest quarter of section twenty-nine, and northeast quarter of the northeast quarter, and lots three and four, of section thirty, township seven north, range thirty-six east.

§ 2. **Repealing Clause.**—SEC. 2. Parts of acts defining other and different boundaries of said city, and inconsistent herewith, are hereby made conformable with the first section of this act.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 27, 1871. (See Third Blen. Sess. 1871, p. 155.) In effect from date.

**No. 809.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF WALLA WALLA," PASSED JANUARY ELEVENTH, 1862. AMENDED.<sup>1</sup>**

ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Walla Walla shall be bounded as follows, to wit: Commencing at the northwest corner of the south half of the northeast quarter of section nineteen, township seven north, of range thirty-six east; thence east one and one-half miles to the section line between sections twenty and twenty-one; thence south along said section line between twenty and twenty-one, and twenty-eight and twenty-nine, one and one-half miles to quarter post between sections twenty-eight and twenty-nine; thence west one and one-fourth miles to the United States military reservation to its intersection with the west line of lot four, section thirty, township seven north, of range thirty-six east; thence north to the place of beginning, including the south half of the northeast quarter and southeast quarter of section nineteen, township seven north, of range thirty-six east; and south half of the northwest quarter, and south half of the northeast quarter, and southwest quarter, and southeast quarter of section twenty; and northeast quarter and northwest quarter of section twenty-nine; and the northeast quarter of the northeast quarter, and lots three and four of section thirty, township seven north, of range thirty-six east.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Walla Walla, within the limits described in section one of this act, shall be and they are hereby constituted a body politic and corporate in fact and in law, by the name and style of the city of Walla Walla; and by that name and style they and their successors shall be known in law, have perpetual

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Blen. Sess. 1873, p. 502.) All acts or parts of acts relating to the subject-matter of this act repealed. In effect from date.

succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and in all actions whatsoever; may purchase, hold and receive property, real and personal, within said city for public buildings, parks and city improvements; may lease, sell and dispose of the same for the benefit of the city; may purchase, hold and receive property, real and personal, beyond the limits of the city to be used for burial purposes, also for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also, for work houses or houses of correction; also, for the erection of water works to supply the city with water, and may sell, lease and dispose of the same for the benefit of the city; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

\* \* \* \* \*

#### ARTICLE II.

§ 3. **Government and Officers.**—SECTION 1. The government of the city shall be vested in a mayor, a common council consisting of four members and a city recorder, who shall severally hold their offices for one year and until their successors are elected and qualified; there shall also be elected at the same time, a city marshal, city assessor, city treasurer, and city surveyor, \* \* \*

\* \* \* \* \*

#### ARTICLE III.

\* \* \* \* \*

§ 4. **Duties of Assessor.**—SEC. 4. It shall be the duty of the assessor in addition to the duties that may be prescribed to him by the common council to make out, within such time as the common council shall order, a correct list of all the property taxable by law within the limits of said city, with the valuation thereof; which shall be certified to by him, and shall be returned by him to the common council; the mode of making out said list and ascertaining the value of said property shall be the same as that prescribed by law for assessing the Territorial and county taxes.

\* \* \* \* \*

#### ARTICLE IV.

\* \* \* \* \*

§ 5. **Powers of the Council.**—SEC. 3. The mayor and common council shall have power within the city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or the laws of the Territory. (2) To levy and collect taxes, not to exceed one-half of one per cent. per annum, upon all property made taxable by law for county and Territorial purposes. \* \* \* (17) To remove all obstructions from the side or crosswalks, and provide for the construction, cleaning and repairs of the same, as well as all gutters, sewers, water courses and underground drainage. \* \* \* (19) To grade, pave and plank or otherwise improve, clean and keep in repair streets and alleys, and they shall have power to assess the cost of grading, paving or planking of any street against the owners of the lots or land fronting on said street in proportion to the amount of ground fronting on said street: *Provided*, That they shall not grade, pave or plank any street at the expense of the property owners unless two-thirds of the persons owning lots or land on said street shall petition the council in writing therefor. \* \* \* (21) To regulate and prescribe the manner of building partition walls and fences.

\* \* \* \* \*

§ 6. **Style of Ordinances.**—SEC. 7. The style of the city ordinances shall be as follows: "The people of the city of Walla Walla do ordain as follows."

\* \* \* \* \*



ARTICLE VI.

\* \* \* \* \*

§ 7. **Special Tax.**—SEC. 4. The common council at any general election of said city may submit to the qualified electors of said city the proposition to levy a special tax of two and one-half mills on a dollar on all the taxable property of the city, and if a majority of the electors vote for said tax the common council shall have power to levy the same, and the money so raised shall be used for opening and widening the streets of said city, and for no other purpose whatever.

\* \* \* \* \*

ARTICLE VII.

§ 8. **Opening Streets, etc.**—SECTION 1. The city council shall have power to lay off, widen, straighten, narrow, vacate, extend and establish streets, public grounds and market places, and to provide for the condemnation of such real estate as may be necessary therefor.

§ 9. **Manner of Appropriation of Lands for Streets, etc.**—SEC. 2. Whenever it shall be deemed necessary by the city council to enter upon or take private property for any of the purposes specified in section one of this article an application in writing shall be made to the district court, which application shall describe as accurately as may be the property to be taken, the object proposed and the owner of the property and each lot or parcel thereof, and notice of the filing thereof shall be given to the several owners by summons as is required to be served to commence a civil action in said court. After such notice shall have been given the court shall proceed to determine the compensation to be paid for the taking of such property, shall empanel a jury, and the mode of procedure shall be the same as in actions at law. The assessment shall be made so that the amount payable to each owner may be ascertained by allotting it to each owner by name, and the inquiry and assessment shall in other respects be made by the jury under such instructions as shall be given by the court.

§ 10. **Possession of Appropriated Premises.**—SEC. 3. When the amount of compensation due to any of the owners of the property to be taken shall be ascertained and the city council shall have caused to be delivered or tendered to such owner or owners the amount of such compensation the city authorities shall have the right to enter upon and take possession of such property for the purpose for which it was condemned, and the court may if necessary enforce an order giving possession.

\* \* \* \* \*

**No. 810.—AN ACT TO EMPOWER THE COMMON COUNCIL OF THE CITY OF WALLA WALLA TO PURCHASE A STEAM FIRE ENGINE, AND TO LEVY A SPECIAL TAX TO PAY FOR THE SAME.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the city of Walla Walla, through her common council, be authorized and empowered to borrow the sum of six thousand dollars, and to levy annually a specified tax of not more than four mills on the dollar on all the taxable property within the corporate limits of said city subject to taxation, to be collected in the same manner and at the same times that other municipal taxes are collected and paid, the proceeds of said special tax to be kept apart from all other funds of the said county of Walla Walla, and to be applied expressly to the payment of the principal and interest of said loan: *Provided*, That a majority of the legal electors of said city shall first vote for said tax, at a special election to be held for that purpose, as hereinafter provided.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 200.) In effect from date.

**No. 811.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED 'AN ACT TO INCORPORATE THE CITY OF WALLA WALLA, APPROVED NOVEMBER 18TH, 1873.'<sup>1</sup>**

**§ 1. Powers of the Council.**—SECTION 1. *Be it enacted, etc.*, That section three in article four of said act<sup>2</sup> be and the same is hereby amended so as to read as follows: The mayor and common council shall have power within the corporate limits of said city—(1) To make by-laws and ordinances not repugnant to the laws of the United States or the laws of the Territory. (2) To levy and collect taxes not to exceed one-half of one per cent. per annum upon all property made taxable by law for county and Territorial purposes. \* \* \* (17) To remove all obstructions from the side and crosswalks, and to provide for the construction, cleaning and repairing of the same, as well as all gutters, sewers, water courses and drains. \* \* \* (19) To grade, pave and plank, or otherwise improve, clean and keep in repair streets and alleys, and they shall have power to assess the cost of grading, paving or planking of any street against the owners of the lots or land fronting on said street in proportion to the amount of ground fronting on said street: *Provided*, That they shall not grade, pave or plank any street at the expense of the property owners unless two-thirds of the persons owning lots or land on said street shall petition the council in writing therefor. \* \* \* (21) To regulate and prescribe the manner of building partition walls and fences. \* \* \*

**§ 2. Opening Streets, etc.**—SEC. 2. The city of Walla Walla has power to provide for clearing, opening, graveling, improving and repairing of streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, or from any cross or sidewalk; also to regulate cellar ways and cellar lights in sidewalks or within the city, and to provide for clearing the streets; also for constructing sewers, and draining and repairing the same; and has power to assess, levy and collect each year a road poll tax of not less than three nor more than four dollars in<sup>3</sup> every male inhabitant of the city between the ages of twenty-one and fifty years, except persons that are a public charge; and the officers of Walla Walla county shall not levy or collect any road tax upon the inhabitants or property within the city of Walla Walla.

**§ 3. Repealing Clause.**—SEC. 3. That an act entitled "An act to amend an act entitled an act to incorporate the city of Walla Walla, approved November 12th, 1875," and all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 6, 1877. (See Sixth Bien. Sess. 1877, p. 357.) In effect from date.

<sup>2</sup>See No. 809, *supra*.

<sup>3</sup>On.

**No. 812.—AN ACT TO AMEND THE CHARTER OF THE CITY OF WALLA WALLA.<sup>1</sup>**

CHAPTER I.

**§ 1. Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the corporate limits of the city of Walla Walla shall be as defined by an act of the legislature of Washington Territory entitled "An act to extend and define the corporate limits of the city of Walla Walla," passed November 11th, 1871, and approved November 27th, 1871.<sup>2</sup>

**§ 2. General Powers.**—SEC. 2. The inhabitants within the city of Walla Walla are hereby constituted and declared to be a municipal cor-

<sup>1</sup>Approved Nov. 8, 1879. (See Tenth Bien. Sess. 1879, p. 16L.)

<sup>2</sup>See No. 808, *supra*.

poration by the name and style of the "City of Walla Walla," and by that name shall have perpetual succession, and may sue or be sued, plead or be impleaded in all courts of justice, contract and be contracted with, and have and use a common seal, and alter the same at pleasure.

#### CHAPTER II.

**§ 3. General Powers of Taxation.**—SEC. 3. The city of Walla Walla has power to assess, levy and collect taxes for general municipal purposes, not to exceed one-half per centum per annum upon all property both real and personal within the city which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided, but all taxes for general and special municipal purposes, exclusive of assessments for improvements as hereinafter provided in sections five, seven, eight and ten of this act, shall not exceed in any year one and one-half per centum on the property assessed.

**§ 4. Protection from Fire: Taxation for.**—SEC. 4. The city of Walla Walla shall have power to make regulations for prevention of accidents by fire. To organize and establish fire departments, ordain rules for government of the same. To provide fire engines and other apparatus and a sufficient supply of water, and to levy and collect special taxes for these purposes, not to exceed in any year one-fifth of one per centum upon the taxable property within the city, and on petition of the owners of one-half of the ground included within any prescribed limits within the city, to prohibit the erection within such limits any building, or any addition to any building, unless the outer walls thereof be made of brick and mortar and iron, or stone and mortar, and to provide for the removal of any building or any addition erected contrary to such prohibition.

**§ 5. Appropriation of Private Property for Public Streets, etc.—Taxation for—Conveyance of Such Lands.**—SEC. 5. The city of Walla Walla has power to purchase or condemn and enter upon and take any lands within or without its territorial limits for public squares, streets, parks, commons, cemeteries, hospital grounds, or to be used for work houses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon, and for these purposes may levy and collect special taxes not exceeding one-fifth per centum in any year. The city shall have entire control of all such buildings and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits established or appropriated to public use by authority of law, or which have been or may be hereafter dedicated to public use by any person or persons, and has power in case such lands are deemed unsuitable or insufficient for the purposes intended to dispose of and convey the same; and conveyances of such property executed in the manner that may be prescribed by ordinance shall be held to extinguish all rights and claims of said city on the public existing prior to such conveyance; but when such lands are so disposed of and conveyed enough thereof shall be reserved for streets to accommodate adjoining property owners.

**§ 6. Lighting of Streets, etc.: Taxation for.**—SEC. 6. The city of Walla Walla has power to provide for the lighting of the streets and furnishing the city with gas or lights, and for the erection or construction of such works as may be necessary or convenient therefor, and has power to levy and collect for these objects a special tax not exceeding one-fifth of one per centum per annum upon the taxable property within the limits of the city for the benefit of such lights, which limits shall be fixed by the city council each year before levying any tax authorized by this section, and all such taxes shall only be assessed upon and collected from property within said limits.

**§ 7. Opening, Improving, etc., Streets, etc.: Taxation for.—SEC. 7.** The city of Walla Walla shall have power to provide for clearing, opening, graveling, improving and repairing of streets and highways and alleys, and for the prevention and removal of all obstructions therefrom, or from any cross or sidewalk; also to regulate cellar ways and cellar lights or sidewalks within the city, and to provide for clearing the streets, also for constructing sewers and cleaning and repairing the same, and have power to assess, levy and collect each year a road poll tax for not less than four nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except persons that are a public charge; also a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the city, which taxes shall be expended for the purposes specified in this section, and the officers of the county shall not levy or collect any ward<sup>3</sup> tax or ward<sup>3</sup> poll tax upon the inhabitants or property within the city.

**§ 8. Constructing, etc., Sidewalks, and Paving, etc., Streets, etc.: Taxation for.—SEC. 8.** The city of Walla Walla shall have power to construct and repair sidewalks and to curb, pave, grade, macadamize and gutter any street or streets, highway or highways, alley or alleys therein, or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys, or any part thereof sufficient to pay the expense of such improvement, and for such purpose may establish assessment districts consisting of a portion or the whole of any such street or streets, highway or highways, alley or alleys, or of several streets, highways and alleys as may be deemed advisable. But unless the owners of more than one-half of the property subject to assessment for such improvement petition the council to make the same, such improvement shall not be made until a majority of five-sevenths of all the members of the council by vote assent to making of the same.

**§ 9. Removal of Certain Nuisances: Collection of Expense.—SEC. 9.** The city of Walla Walla shall have power to cause any lot of land within their limits on which water at any time becomes stagnant to be drained or filled up, and to cause any vault upon any lot or block within the city to be cleaned when necessary, and in case of failure or refusal of the owner of any such property to comply with the requirements of any ordinance or resolution of the city council, with reference to such matters after such notice, as in such ordinance or resolution may be prescribed, the work necessary may be done at the expense of the city, and the amount so expended shall be assessed as a tax upon such property and shall be collected as other assessments.

**§ 10. Establishing Grade of Streets, etc.: Appropriation of Private Property for—Street Railways.—SEC. 10.** The city of Walla Walla shall have power to provide for the survey of the blocks and streets of the city and for making and establishing the boundary lines of such blocks and streets and to establish the grades of all streets within the city, and to lay off, widen, straighten, name, change, extend, vacate and establish streets, highways and alleys and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvements authorized by this section sufficient to make compensation for all property condemned or damaged, and to authorize or forbid the location and laying down of tracks for railways and street railways on all streets, alleys and public places, but no railway track can thus be located and laid down until after the injury to property abutting upon the street, alley, or public place, upon which such track is proposed to be located and laid down, has been ascertained and compensated in the man-

<sup>3</sup> Road.

ner provided for compensation of injuries arising from re-grade of streets in section 124 of this act.

§ 11. **Erection, etc., of Water Works.**—SEC. 11. The city of Walla Walla shall have power to erect and maintain water works or to authorize the erection of the same for the purpose of furnishing the city with a sufficient supply of water, but no such works shall be erected by the city until a majority of the voters of the city at a general or special election, or five-sevenths of the members of the city council by vote assent thereto.

§ 12. **Extra-Territorial Jurisdiction.**—SEC. 12. The city of Walla Walla shall have power to construct or authorize the construction of such water works without the limits of the city, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works and all reservoirs, streams, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken for five miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect.

§ 13. **Term of Franchise for Water Works.**—SEC. 13. If the right to construct and operate such water works is granted to private individuals or incorporated companies by said city, it may make such grant to inure for a term of not more than twenty-five years, \* \* \*

§ 14. **Appropriation of Private Property for Water Works.**—SEC. 14. Said city is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works; and if it shall authorize the construction and operation thereof by individuals or private corporations, it may confer by ordinance upon such person or persons or corporation the said power to take and appropriate private property for such purpose.

§ 15. **Purchase and Maintenance of Water Works: Taxation for.**—SEC. 15. The city of Walla Walla shall have power, at the regular time for levying taxes in any year, to levy and collect a special tax, not exceeding one-half of one per centum upon the taxable property within the limits prescribed as hereinafter provided, for the purpose of constructing such water works: *Provided*, No such tax shall be levied for the purpose of aiding any private individual or corporation, and when such work shall have been constructed, said city shall have power to assess and collect, from time to time, in such manner as the city council may deem equitable, from each tenement or other place supplied with water, such water rent as may be deemed reasonable; and at the regular time for levying taxes in each year, to levy and collect, in addition to the tax already authorized by this section, a special tax on taxable property within the limits prescribed as hereinafter provided, sufficient, with the water rents hereby authorized, to pay the expenses of running and operating such works; and if the right to build, maintain and operate such water works shall be granted to private individuals or corporation by the city, and the city shall contract with such individuals or corporation for a supply of water for any purpose, said city shall levy and collect each year a special tax sufficient to pay off such water rent to such individual or company: *Provided*, That said taxes shall not exceed one-half of one per centum upon the taxable property within the limits of the benefits and protection of such works, which limits shall be fixed by the city council each year before levying any tax authorized by this section. And all such taxes shall only be assessed upon and collected from property within said limits.

\* \* \* \* \*

§ 16. **Limit of Indebtedness.**—SEC. 23. The city of Walla Walla shall have power to borrow money on the credit of the city for any purpose



within the authority of the corporation, including the payment of any existing debt; but the indebtedness of the city must not exceed in the aggregate the sum of twenty thousand dollars, and any debt or liability incurred in excess of said sum of twenty thousand dollars shall be invalid and void.

\* \* \* \* \*

§ 17. **Incidental Powers.**—SEC. 25. The city of Walla Walla shall have \* \* \* such other power and privilege not here specifically enumerated as are incident to municipal corporations of like charter<sup>4</sup> and degree not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act, according to the true intent and meaning thereof.

#### CHAPTER III.

§ 18. **Government.**—SEC. 26. The power and authority hereby given to the city of Walla Walla by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned, or may be created under its authority.

\* \* \* \* \*

§ 19. **Officers.**—SEC. 29. There shall be elected, as hereinafter specified, a \* \* \* marshal, clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner and an assessor, who shall be officers of the municipal corporation. \* \* \*

\* \* \* \* \*

#### CHAPTER VI.

§ 20. **General Powers of the Council.**—SEC. 46. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein or by some ordinance of the city conferred on some other officer.

\* \* \* \* \*

#### CHAPTER VIII.

\* \* \* \* \*

§ 21. **Duties of Assessor.**—SEC. 67. The assessor must annually make a correct list of all the property subject to taxation by the city, with the valuation thereof, and certify and return the same to the clerk.

\* \* \* \* \*

§ 22. **General Law to Govern Assessment.**—SEC. 69. The assessment of property must be made in the manner prescribed by law for assessing property for Territorial and county taxes. But the form of assessment roll, and the rule for ascertaining the ownership of property and in whose name it may be assessed may be prescribed by ordinance, and the time of making such assessment and the return thereof, and of applying to the council for a revision thereof, must be prescribed by ordinance.<sup>5</sup>

\* \* \* \* \*

#### CHAPTER XII.

\* \* \* \* \*

§ 23. **Actions Concerning Assessments, etc.—Discretion of Council.**—SEC. 117. In any action, suit or proceedings in any court concerning

<sup>4</sup> Character.

<sup>5</sup> Chapter x, relative to collecting assessments for street improvements, is *verbatim* as §§ 22 to 38, inclusive, of No. 717, *supra*, except wherever in said No. the word "Ainsworth" appears read "Walla Walla," and wherever the word "Whitman" appears read "Walla Walla," and except, also, § 23 at \* instead of "in number of the persons" read "of the persons in number," and § 30 at \* omit "said;" and chapter xi, relative to the collection of delinquent taxes, is *verbatim* as §§ 39 to 51 of said No. except wherever in said No. the word "Ainsworth" appears read "Walla Walla," and § 42 at \* instead of "shall" read "must," and § 45 at \* omit "not."

any assessment of property or levy of taxes authorized by this act, or the collection of any such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith shall be presumed to be regular and duly taken until the contrary is shown; and when any proceeding, matter or thing is by this act committed or left to the discretion of the council, such discretion or judgment when exercised or declared is final and cannot be reviewed or called in question elsewhere.

\* \* \* \* \*

**§ 24. What Shall Not be Necessary to Recite in Deed.—SEC. 119.** In making a deed for real property sold for delinquent taxes, it is not necessary to recite or set forth the proceeding prior to the sale, but it is sufficient, if it substantially appear from such deed, that the property was sold by virtue of a warrant from the city for a delinquent tax and the amount thereof, together with the date of the sale, and the amount paid therefor by the purchaser. The style of a warrant for the collection of delinquent taxes shall be in the name of such city.

\* \* \* \* \*

**§ 25. Assessment of Acreage.—SEC. 121.** All real property within the limits of the city of Walla Walla not laid off in blocks at the time of making any assessment authorized by this act, must be assessed at the cash value per acre or fraction thereof as the case may be.

\* \* \* \* \*

**§ 26. Petition for Improvement.—SEC. 123.** No street, highway or alley shall be extended, widened, altered or vacated, except on petition to the city council, signed by a majority of the resident owners of real estate within the ward or wards, in or through which such street, highway or alley is proposed to be extended, widened, altered or vacated.

**§ 27. Appraisement and Settlement of Damages for Establishing Grade of Street, etc.—SEC. 124.** When the grade of any street, highway or alley shall have been established by authority of the city of Walla Walla, and any person or persons shall have built or made improvements on such street, highway or alley, and the city shall afterward change the established grade, or shall change the boundary lines of any block, street, highway or alley in such manner as to injure or diminish the value of the property which shall have been improved, the city shall pay to the owner or owners of the property so injured the amount of such damage, and when the parties interested are unable to agree with the city council as to the amount so to be paid, the same shall be assessed by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of the property and one by the two appointed, or in case of their disagreement, by the city council. Said appraisers shall be sworn to faithfully execute their duties according to the best of their ability. They shall view the premises and receive any legal evidence and may adjourn from day to day, but shall make their report within thirty days from the time of their appointment. They shall assess the damage sustained over and above the additional value of the property by reason of the change or improvements. They shall sign their report and deliver the same to the clerk of the district court of the district embracing the city, and if no objection is made thereto, in the manner hereinafter prescribed, within twenty days thereafter, the assessment shall be final and the city shall pay the amount so assessed, and upon filing a precipe therefor the party entitled may have a judgment entered therefor. If the damage so assessed be excessive or insufficient, the clerk shall, upon filing a written precipe therefor by the city or any person aggrieved, within said twenty days, enter the case upon the trial docket for the next term. The party claiming damages shall be the plaintiff and the city shall be the defendant. The usual pleadings in a civil action may be filed in such special pleadings as the court shall allow, and the issues thus formed shall be tried as

other civil actions. The costs shall be taxed against the city only when the judgment is for a larger amount than was awarded by the appraisers, or the same has been tried at the instance of the city for the purpose of reducing the amount of damages, and the damages are not so reduced, otherwise the costs shall be taxed against the parties claiming damages.

**§ 28. Appraisement and Settlement of Damages for Appropriation of Private Property.**—SEC. 125. When private property shall have been condemned and the compensation to be paid therefor shall be made a charge upon the property benefited thereby, as provided in section ten of this act the assessment upon the various lots or parcels of land so charged and the appraisement of damages to be paid to the owner of the property condemned shall be made by three persons, one of whom shall be appointed by the mayor, one by the owner or owners of property subject to assessment and one by the owner or owners of property condemned or damaged, or if either or both said classes of property owners fail or refuse to make such appointment after ten days' notice so to do, which notice shall be given in the manner prescribed in the ordinance providing for such condemnation of property, either or both such appointments shall be made by the city council. The persons so appointed shall be sworn; shall proceed in making the assessments, and shall report within the time and in the manner prescribed for appointments in the preceding section. Their award shall be final unless objection is made within twenty days from the time of the return thereof to the clerk of the district court. Any party aggrieved by the award may, upon filing a *precipe* therefor, have the case docketed for trial at the next term of the court. When the issue in such case is between an owner of property condemned or damaged and the city, such party shall be plaintiff and the city defendant; and when the issue to be tried relates to excessive or unfair assessments upon property, the city shall be plaintiff and the owner of the property defendant. The issue shall be made up, the case tried and determined and costs taxed as provided in the preceding section: *Provided*, That all costs taxed against the city and all costs of the appraisements and other proceedings under this section shall be added to the gross amount to be raised by assessment, and collected from the several property holders in the same proportion as said gross amount and said assessments and costs shall be a lien upon the property therewith charged.

**§ 29. Appropriation in Other Cases.**—SEC. 126. In all other cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

**§ 30. Repealing Clause.**—SEC. 127. The act of the legislative assembly of the Territory of Washington, entitled "An act to provide for the incorporation of cities," approved Nov. 9, 1877, so far as the same relates to the city of Walla Walla, inconsistent with the provisions of this act, is hereby declared to be inoperative.

**§ 31. Effect of Ordinances Heretofore Passed.**—SEC. 128. All city ordinances passed in pursuance of the act mentioned in section 127, and not inconsistent therewith, shall be and remain in full force after this act takes effect and thereafter until repealed by the city council, and all rights vested or liabilities incurred under any former charter or amendment thereto of said city of Walla Walla, or any ordinance of said city when this act takes effect shall not thereby be lost, impaired or discharged.

\* \* \*

**§ 32. Date in Effect.**—SEC. 129. This act to go into effect on the first day of January, 1880.

**No. 813.—AN ACT TO INCORPORATE THE CITY OF WALLA WALLA AND TO PARTICULARLY DEFINE THE POWERS THEREOF.<sup>1</sup>****CHAPTER I.**

**§ 1. Boundaries.**—SECTION 1. *Be it enacted, etc..* That the corporate limits of the city of Walla Walla and the boundaries thereof shall be as follows: Beginning at the northwest corner of the northeast quarter of the northwest quarter of section nineteen (19), township seven (7) north, range thirty-six (36) east, Willamette meridian; thence south on subdivision lines to the north boundary of the United States military reserve; thence northeasterly along said boundary to the northeast corner of said reserve; thence southeasterly along the eastern boundary of said reserve to the south boundary of the northeast quarter of the southeast quarter of section thirty (30); thence east on subdivision lines to the southeast corner of the northwest quarter of the southwest quarter of section twenty-eight (28); thence north on subdivision lines to the northeast corner of the southwest quarter of the northwest quarter of section twenty-one (21); thence west on subdivision lines to the northeast corner of the southwest quarter of the northeast quarter of section twenty (20); thence north on subdivision line to the northeast corner of the northwest quarter of the northeast quarter of section twenty and on north boundary of said section; thence west on north boundaries of sections twenty (20) and nineteen (19) to the place of beginning.

**§ 2. General Powers.**—SEC. 2. The inhabitants within the city of Walla Walla are hereby constituted and declared to be a municipal corporation by the name and style of the "City of Walla Walla," and by that name shall have perpetual succession, and may sue or be sued, plead or be impleaded in all courts of justice, contract and be contracted with, and have and use a common seal, and alter the same at pleasure.

**CHAPTER II.**

**§ 3. General Powers of Taxation.**—SEC. 3. The city of Walla Walla has power to assess, levy and collect taxes for general municipal purposes, not to exceed one-half per centum<sup>2</sup> per annum upon all property, both real and personal, within the city which is by law taxable for Territorial and county purposes, and to levy and collect special taxes as hereinafter provided, but all taxes for general and special municipal purposes shall not exceed in any one year one and one-half per centum on the property assessed: *Provided, however,* That the above limitations shall not apply to local assessments in assessment districts.

**§ 4. Protection From Fire: Taxation for.**—SEC. 4. The city of Walla Walla shall have power to make regulations for prevention of accidents by fire. To organize and establish fire departments, and shall have control thereof, and ordain rules for government of the same. To provide fire engines and other apparatus and a sufficient supply of water, and to levy and collect special taxes for these purposes, not to exceed in any year three-tenths of one per centum upon the taxable property within the city, \* \* \*

**§ 5. Regulation and Control of Additions to the City.**—SEC. 5. The City of Walla Walla may regulate and provide as to the manner in which all lands and additions to the city shall be subdivided into lots, blocks, streets and alleys, and the width, distance apart and direction of each street and alley and the manner in which a plat shall be made thereof, and where filed and the kind of monuments in all parts of the city, and place and manner of erection and maintenance thereof, to prevent mis-

<sup>1</sup>Approved Nov. 28, 1883. (See Ninth Bien Sess. 1883, p. 270.)

<sup>2</sup>See No. 818, *infra*.

takes and confusion of boundaries, and may cause an official map of said city to be made and kept for public inspection, which plat, certified by the city surveyor, shall be *prima facie* evidence that the lines as they thereon appear are correct, and all surveys made by the city surveyor whatever, at the instance and expense of the city or private parties shall be official surveys, and a minute thereof shall be kept by the city surveyor as a part of his official records, and shall be *prima facie* evidence of their own correctness, and the city has power to enforce this by ordinance, and to compel the establishment and maintenance of such monuments, and to fine or imprison or both for a violation thereof, and when the boundary or existence of any public street, alley, easement or square is in doubt, and the land claimed by a private party, the city may file a bill in equity to determine the right thereto.

**§ 6. Appropriation of Private Property for Streets, etc.—Conveyances.**—SEC. 6. The city of Walla Walla has power to purchase or condemn and enter upon and take any lands within or without its territorial limits for public streets, parks, commons, cemeteries, hospital grounds, or to be used for workhouses or houses of correction, or any other proper and legitimate municipal purpose, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon; and for these purposes may levy and collect special taxes, not exceeding one-fifth of one per cent. in any one year. The city shall have entire control of such buildings and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power to regulate and improve the same; and in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the manner that may be prescribed by ordinance, shall be held to extinguish all rights and claims of said city on<sup>a</sup> the public existing prior to such conveyance; but when such lands are so disposed of and conveyed enough thereof shall be reserved for streets to accommodate adjoining property owners.

**§ 7. Lighting Streets, etc.: Taxation for.**—SEC. 7. The city of Walla Walla has power to provide for the lighting of the streets and furnishing the city with lights, and for the erection or construction of such works as may be necessary and convenient therefor, and has power to levy and collect for these objects a special tax, not exceeding one-fifth of one per centum per annum upon the taxable property within the limits of the city for the benefit of such lights.

**§ 8. Opening, Improving, etc., Streets, etc.: Taxation for.**—SEC. 8. The city of Walla Walla shall have power to provide for clearing, opening, vacating, graveling, improving and repairing of streets, highways and alleys, to gutter the same and to construct and repair sidewalks and build bridges, and for the prevention and removal of all obstructions therefrom or from any cross or sidewalk; also to regulate cellarways and cellar lights or sidewalks within the city, and to provide for clearing the streets, and establish the grade thereof; also for constructing sewers and cleaning and repairing the same, and have power to assess, levy and collect each year a road poll tax of not less than two nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except actual and exempt members of the fire department, and except persons that are a public charge; also a special tax on property of not less than two nor more than six mills on every dollar's worth of property within the city, which taxes shall be expended for the purposes specified in this section, and there shall not be levied or col-

<sup>a</sup> See No. 818, *infra*.



lected by the county of Walla Walla or the officers thereof any road tax or road poll tax upon the property or inhabitants within said city.

\* \* \* \* \*

§ 9. **Water and Street Railway Companies.**—SEC. 10. The city of Walla Walla is hereby authorized to grant the right to use the streets of said city for the purpose of laying gas and other pipes intended to furnish the inhabitants of said city with light or water to any persons or association of persons for a term not exceeding twenty-five years, and to authorize or forbid the location and laying down of tracks for railways and street railways, telegraph and telephone appliances on all streets, alleys and public places, but no railway track can thus be located and laid down until after the injury to streets, alleys and to property abutting upon the street, alley or public place upon which such track is proposed to be located and laid down, has been ascertained and compensated in the manner provided for compensation of injuries arising from regrade of streets in section 99 of this act: *Provided, always,* That none of the rights or privileges herein granted shall be exclusive nor prevent the council from granting the same rights to others.

§ 10. **Erection, etc., of Water Works.**—SEC. 11. The city of Walla Walla shall have power to erect and maintain water works within or without the city limits or to authorize the erection of the same for the purpose of furnishing the city or the inhabitants thereof with a sufficient supply of water, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works and all reservoirs, streams, springs, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken for five miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect, but no water works shall be erected by the city until a majority of the voters, who shall be those only who are freeholders in the city or pay a property tax therein on not less than five hundred dollars' worth of property, shall at a general or special election vote for the same. Such proposition shall be formulated and submitted not less than thirty days before election.

§ 11. **Appropriation of Private Property for Water Works.**—SEC. 12. Said city is hereby authorized and empowered to condemn and appropriate so much private property as shall be necessary for the construction and operation of such water works, and shall have power to purchase or condemn water works already erected, or which may be erected, and may mortgage or hypothecate the same to secure to the persons from whom the same may be purchased the payment of the purchase price thereof. Said city shall have power to regulate and sell the water thus brought therein, and the moneys arising therefrom shall constitute a fund to be used to defray the expenses of operating the same and to pay the purchase price thereof and said city may levy and collect a special tax each year until the necessity therefor ceases to exist, not to exceed two-tenths of one per centum: *Provided, however,* no such tax shall be levied or collected until the question has been submitted, as provided in section eleven (11) of this act, to electors as therein named and a majority thereof at an annual election<sup>4</sup> shall favor the same.

\* \* \* \* \*

§ 12. **Protection From Floods.**—SEC. 21. The city of Walla Walla shall have power to protect that city and the inhabitants thereof from the floods of Mill creek and other streams, and to that end may prescribe the width between the banks, prevent obstructions and cause the same to be removed; prescribe the places where embankments shall be made and

<sup>4</sup> See No. 816, *infra*.

the nature thereof, and prescribe the duties of the owners of the land or shore of such stream as to putting in and maintaining protections against the overflow or washing thereof \* \* \* and in case said duty is not performed, the city may construct such protection and recover the cost thereof from the owner on whose land the same is made.

§ 13. **May Adopt Proper Ordinances.**—SEC. 22. The city of Walla Walla shall have power to adopt proper ordinances for the government of the city and to carry into effect the provisions of this act. \* \* \*

§ 14. **Incidental Powers.**—SEC. 23. The city of Walla Walla shall have \* \* \* such other powers and privileges not here specifically enumerated as are incident to municipal corporations.

#### CHAPTER III.

§ 15. **Government.**—SEC. 24. The power and authority hereby given to the city of Walla Walla by this act shall be vested in a mayor and council, together with such other officers as are in this act mentioned, or may be created under its authority.

\* \* \* \* \*  
§ 16. **Officers.**—SEC. 27. There shall be elected \* \* \* marshal, clerk, \* \* \* treasurer, \* \* \* city surveyor, street commissioner, assessor, \* \* \* and such other officers as may become necessary for the due execution of the powers herein conferred. \* \* \*

#### CHAPTER VI.

§ 17. **Powers of the Council.**—SEC. 43. The city council shall possess all the legislative powers granted by this act, shall be a board for the equalization of city taxes, and shall have all other corporate powers of the city not herein or by some ordinances of the city conferred on some other officer; and shall have the same powers and duties with reference to city assessments and taxes as those prescribed by existing law for the government of the board of county commissioners in the matter of county assessments and taxes.

#### CHAPTER VIII.

\* \* \* \* \*  
§ 18. **Duties of Assessor.**—SEC. 64. The assessor<sup>6</sup> must, annually, make a correct list of all property subject to taxation by the city, with the valuation thereof, and perform the same duties as to the assessment and collection of city taxes as are prescribed by existing laws as the duties of county assessor in the assessment and collection of county taxes.

\* \* \* \* \*  
§ 19. **Duties of Marshal.**—SEC. 66. The marshal is a peace officer, and *ex-officio* chief of the police and collector of delinquent taxes. \* \* \* He has power, by and with the approval of the council, to appoint one or more deputies. \* \* \*

#### CHAPTER IX.

§ 20. **Ordinances.**—SEC. 72. The style of every ordinance shall be. "The city of Walla Walla does ordain as follows." No ordinance shall contain more than one subject, which shall be clearly expressed in the title; and when only a section of an ordinance is repealed, the repealing ordinance shall specify particularly what section is to be repealed by repeating it; but when the whole ordinance is to be repealed, it shall be sufficient to name it by title and number.

<sup>6</sup> See No. 818, *infra*.

## CHAPTER X.

§ 21. **Assessment Districts, etc.**—SEC. 75. The city of Walla Walla shall have power to establish assessment districts therein, and change the same at pleasure, to make any improvement, including opening, cleaning, sprinkling and lighting streets, alleys and public grounds, building and repairing bridges, protecting property from floods, and abating nuisances, and may raise the necessary means therefor as provided in this chapter. *Provided*, That when the council deem that such proposed improvement, though specially beneficial to the assessment district, is also of great benefit to the whole city, it may contribute from any fund of the city applicable such amount as it may deem just: *And provided further*, When the council deem the proposed improvement not local in benefits, but of general benefit to the whole city, it may make appropriations from any funds of the city applicable thereto to pay for the whole thereof.

§ 22. **How Such District Formed.**—SEC. 76. Assessment districts may include such lands as the council shall deem benefited by the improvement: *Provided*, That in case of the improvement of established streets, sidewalks and alleys it shall include only the lands abutting<sup>7</sup> the proposed improvement and running back therefrom one hundred and twenty feet<sup>8</sup> or less, and no improvement shall be made until the grade shall have been established. In all other cases the dimensions and locality of the district shall be according to the discretion of the council, provided it shall always embrace the proposed improvements.

§ 23. **Ordinances Establishing such Districts — Remonstrance.**—SEC. 77. The ordinances establishing the district shall describe the boundaries thereof and the nature and locality of the proposed improvement, which shall be published in the paper doing city printing at least two weeks before bids shall be received for the work. After the district is established an estimate of the work to be done shall be made, describing the amount of filling and excavation and a particular description of each part of said work, and when practicable a diagram showing the nature of the work, which shall be filed with the clerk for the inspection of the public, and when the same is so filed the clerk shall cause notice of the filing to be published as aforesaid at least ten days before bids are received for doing the work, and shall publish as a part of said notice, that unless a remonstrance is filed with him within ten days of the publication, signed by the freeholders representing more than one-half the land in the district, bids at the end of said ten days will be received and the contracts to do the work let: *Provided*, That if a petition signed by a majority of said freeholders representing the same amount of land in the district as that in the remonstrance be filed at any time, a new advertisement for bids shall be had and contracts let in all respects as if the remonstrance had not been filed.

§ 24. **Effect of Remonstrance.**—SEC. 78. If the remonstrance mentioned shall be filed as aforesaid, the proceedings shall stop until said petition shall be filed: *Provided*, That a new district with different limits may be formed for the same purpose and new proceedings had as above prescribed.

§ 25. **Abstract of Roll.**—SEC. 79. When, according to the above provisions, it becomes lawful to proceed with said improvement, and bids have been received therefor the clerk shall make an abstract from the last annual assessment roll of the city of all the lands in said district and the values thereof as it so appears, and return the whole proceedings and all the papers to the council.

§ 26. **Levy of Assessment.**—SEC. 80. Upon the return of said clerk to the council the bids shall be opened, and if the council shall accept any

<sup>7</sup> See No. 818, *infra*.

bid it shall proceed to levy a tax on the land in said district (exclusive of improvement), as it shall appear from said list made from the assessment roll according to the value thereof, sufficient to pay the amount of the accepted bid and the incidental probable expenses.

§ 27. **New Bids.**—SEC. 81. If no bid is accepted notice shall be published by the clerk in the paper aforesaid, at least five days, that new bids will be received for said work and when such bids are received and accepted by the council it shall levy the tax as aforesaid.

\* \* \* \* \*

§ 28. **Fees, etc., to be Collected with Tax.**—SEC. 83. The fees and percentages and penalties for collection of delinquent taxes shall be added to the delinquent tax and collected as a part thereof.

§ 29. **How Lien of Tax Acquired.**—SEC. 84. As soon as a tax is levied the clerk shall record the same in a book in his office and shall cause to be filed in the county auditor's office a certified transcript of said exhibit under his seal of office. The county auditor shall file said transcript and record it in the book of liens, indexing the owner or reputed owner as lienor and the city as claimant, for which he shall be entitled to charge the fee of twenty-five cents for each name so indexed: which sum shall be added to said claim, and upon the enforcement of such lien shall be taxed and collected as costs.

§ 30. **If Tax is Insufficient, Deficiency May be Added.**—SEC. 85. The funds collected under this chapter shall be kept separate, and if there is any excess thereof it shall be returned to those who paid it, according to their respective interests, and if there is a deficiency, a tax may be levied, as above provided, to make up such deficiency.

#### CHAPTER XI.

§ 31. **Collection of Delinquent Taxes.**—SEC. 86. The assessment of property, the form of the assessment roll, the rule for ascertaining the ownership of property and in whose name it may be assessed, and the collection of city taxes, shall be made in the manner prescribed by existing laws for the assessment and collection of Territorial and county taxes; the time of making assessments, the return of the assessor, the time for levying and collecting the general and special taxes, the time for the equalization of taxes and when they shall become delinquent, must be prescribed by ordinance. The revised assessment roll shall be the basis of taxation in all assessment districts and the city for the fiscal year.

§ 32. **Tax Deeds—Right of Redemption.**—SEC. 87. The fees and costs, penalties and interest for and on city taxes and for the collection thereof, shall be the same as that prescribed by existing laws for Territorial and county taxes, and the effect of sales and deeds and the right of redemption shall be the same: *Provided*, That in the case of road poll tax, that if any person shall bring a receipt from the street commissioner of having performed work for the same, then such receipt shall be accepted as payment at the rate of two dollars per day, and the tax collector shall take up such receipt and give a receipt as for cash.

§ 33. **How far Council May Alter General Law.**—SEC. 88. And the city council shall have power by ordinance to supplement and change the present Territorial law as to time taxes shall be collected and the time of making return of delinquent rolls by the marshal, and as to the change of the name of county officers to the proper city officers, and any other change which is necessary to make said laws applicable to city and district assessments and taxes.

§ 34. **Rate of Interest on Taxes.**—SEC. 89. Whenever any general or special tax has been levied, as provided and authorized by this chapter, every part thereof shall bear interest at the legal rate from the time

it is due and payable until paid or collected, and shall be a lien from said date upon any real property owned by the party assessed.

CHAPTER XII.

\* \* \* \* \*

**§ 35. Actions Concerning Assessments, etc.—Discretion of Council.**—SEC. 97. In any action, suit or proceedings in any court concerning any assessment of property or levy of taxes authorized by this act, or the collection of any such tax, or proceeding consequent thereon, such assessment, levy, consequent proceeding and all proceedings connected therewith shall be presumed to be regular and duly taken until the contrary is shown; and when any proceeding, matter or thing is, by this act, committed or left to the discretion of the council, such discretion or judgment, when exercised or declared, is final and can not be reviewed or called in question elsewhere.

\* \* \* \* \*

**§ 36. Damages for Change of Grade, etc.—Appropriating Private Property.**—SEC. 99. When the grade or boundaries of any street has been once legally established, such grade or boundary shall not be changed without indemnifying each person injured by such change, and the amount of compensation shall be determined as in other cases when private property is taken for the use of the city, and the city of Walla Walla may exercise the right of eminent domain to take any private property for any use of the city embraced within any of the objects or purposes of this act.

**§ 37. Damages for Such Appropriation.**—SEC. 100. In all cases where private property is condemned or taken for public use by authority of this act, the city shall pay a fair compensation therefor to the owners of such property, and when such owners and the city council are unable to agree as to the amount of such compensation, the same shall be assessed and determined in the manner provided by the general laws of this Territory relating to the mode of proceeding to appropriate lands by private corporations.

**§ 38. Certain Vested Rights, etc.—Intention of This Act.**—SEC. 101. All the trusts for private persons and all the rights to property vested or existing in the city of Walla Walla by virtue of any act of the legislative assembly of the Territory of Washington, or city organization under the laws thereof, and by the acts of congress, are hereby imposed and granted to the city of Walla Walla as created by this act, as the successor thereof, it being the true intent of this and all other acts creating the city of Walla Walla to continue the existence of the same city as prescribed from time to time by the different acts incorporating the same, but with additional powers and manner of government.

**§ 39. Ordinances Heretofore Adopted.**—SEC. 102. All ordinances heretofore in force in the city of Walla Walla passed concerning the trusts of said city for private parties are continued in force, and all ordinances passed and in force in said city when this act goes into effect are continued in force until repealed by the city council.

**§ 40. Public Act.**—SEC. 103. The rights, powers and duties and liabilities of the city of Walla Walla and of its several officers shall be those prescribed in this act and none others, and this is hereby declared a public act.

**§ 41. Authority Over Additions.**—SEC. 104. Whenever an addition to said city shall be platted and recorded in the office of the county auditor of Walla Walla county as required by law, then and in that case the city of Walla Walla shall have power by ordinance to include such addition within the corporate limits thereof: *Provided always*, That such addition is joined to the already established boundaries of said city.

**§ 42. Limit of Indebtedness.**—SEC. 105. The limit of indebtedness of the city of Walla Walla is hereby fixed at \$50,000.



§ 43. **Repealing Clause.**—SEC. 106. All acts and parts of acts relating to the incorporation of Walla Walla city and not herein reserved are hereby repealed.

§ 44. **Date in Effect.**—SEC. 107. This act to take effect from and after January 1, 1884.

**No. 814.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE CITY OF WALLA WALLA AND TO PARTICULARLY DEFINE THE POWERS THEREOF."<sup>1</sup>**

§ 1. **Appropriation of Private Property for Water Works.**—SECTION 1. *Be it enacted, etc.,* That the act entitled "An act to incorporate the city of Walla Walla and to particularly define the powers thereof," approved November 28, 1883,<sup>2</sup> be and the same is hereby amended to read as follows: Sec. 2. Section 12 of the act of which this is amendatory is hereby amended by striking therefrom the word "annual," occurring after the words "and a majority thereof at an," and preceding the word "election."

\* \* \* \* \*

§ 2. **Protection From Floods, etc.**—SEC. 4. Add to section 21 of said act:<sup>3</sup> "The owners of land or shore as above mentioned embraces all lands within one hundred and twenty feet of the middle channel of Mill creek."

\* \* \* \* \*

§ 3. **Establishment of Assessment Districts.**—SEC. 10. Section 77 of said act<sup>4</sup> is hereby repealed and in lieu thereof section 77 shall read as follows: Sec. 77. The ordinance establishing the district shall describe the boundaries thereof, and in case bids are to be let for improvements of streets already existing, bids shall be advertised for, and a diagram or description of the proposed improvements filed in the clerk's office for the inspection of bidders. In case the district is established to purchase land for opening new streets, then the amount necessary to be raised therefor as soon as it shall be ascertained shall be advertised in the city paper, and the work or purchase shall be stayed only by a petition to that effect by persons in the district representing half of the tax, and this must be filed with the clerk within twenty days after the publication of the notice of the amount to be raised: *Provided*, That a five-sevenths vote of the council may stop proceedings or continue them to the end regardless of petition or remonstrance.

§ 4. **Manner of Collection of Tax.**—SEC. 11. Section 79 of said act<sup>5</sup> is repealed and as section 79 the following shall be inserted: Section 79. When it is lawful to proceed, as above provided, the assessor shall make assessment of all land within the district which shall be levied and collected in all respects as a general city tax, except the whole time and manner of assessment and collection may be controlled by ordinance.

§ 5. **Actions to Collect Taxes.**—SEC. 12. That section 86<sup>6</sup> is amended by repealing all after the word "ordinance" therein and inserting in place of that repealed the following: "Any general or special tax may be collected by civil action if the city elect to do so, and in that case has all the rights and proceedings as in other civil actions, and judgments have the same effect: *Provided*, That no issue shall be tried in said action except as to how much tax would be justly owing if the assessment had been regular in every respect, and no issue shall be tried as to the regularity of any official act preceding the action."

\* \* \* \* \*

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 438.) In effect from date.

<sup>2</sup> See No. 813, *supra*.

<sup>4</sup> See *ibid.*, § 23.

<sup>6</sup> See *ibid.*, § 21.

<sup>3</sup> See *ibid.*, § 12.

<sup>5</sup> See *ibid.*, § 25.

CHAPTER XXV.—CITY OF WHATCOM.

No. 815.—AN ACT TO INCORPORATE THE CITY OF WHATCOM.<sup>1</sup>

CHAPTER I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the corporate limits of the city of Whatcom and boundaries thereof shall be as follows: Commencing at the southeast corner of the Henry Roeder donation claim, in section twenty-five (25), township thirty-eight (38) north, range two (2) east; thence north to the northwest corner of said donation claim; thence east along the north line of said donation claim to the west line of section nineteen (19), township thirty-eight (38) north, range three (3) east; thence north along said section line to the center line thereof; thence east along said center line forty rods (more or less) to the west line of lands owned by the Bellingham Bay and British Columbia R. R. Co.; thence south along the line of said lands forty rods (more or less) to the southwest corner of said lands of said railroad company, being the southwest corner of the northeast quarter of the southwest quarter of said section nineteen (19); thence east forty rods (more or less) to the center line of said section nineteen (19); thence south along said center line of said section nineteen (19) and along the center line of section thirty (30), in said township and range last aforesaid, to the north line of the H. C. Page donation claim in said township and range; thence west along said line to the northeast corner of the Russell V. Peabody donation claim; thence south to the southeast corner thereof; thence west to a bolt in the rock at or near mean high tide in Bellingham Bay; thence along the southerly and southwesterly line of said Russell V. Peabody donation claim to the west line thereof; thence south along the east line of the Henry Roeder donation claim aforesaid two (2) chains to the southeast corner thereof; thence along the southwesterly line of said Henry Roeder donation claim to the place of beginning, together with the tidal flat lands in front of said Henry Roeder and Russell V. Peabody donation claim, out to deep water, twenty-four feet in depth at low tide, in Bellingham Bay.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Whatcom within the limits above described shall be and they are hereby constituted a body politic and corporate in fact and in law by the name and style of the "City of Whatcom," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city, and they shall have and use a common seal, and may alter and amend the same at pleasure.

\* \* \* \* \*

CHAPTER II.

§ 3. **General Powers of Taxation.**—SECTION 1. The city of Whatcom shall have power to assess, levy and collect taxes, for general and municipal purposes, not to exceed one-half of one per centum per annum upon all property, both real and personal, within the city limits, which is by law taxable for Territorial and county purposes: *Provided*, That the indebtedness of the city must never exceed in the aggregate the sum of

<sup>1</sup> Approved Nov. 23, 1883. (See Ninth Bien. Sess. 1883, p. 187.) In effect from date.

(§2,500) two thousand five hundred dollars, and any debt or liability incurred in excess of said sum of two thousand five hundred dollars shall be invalid and void.

\* \* \* \* \*

**§ 4. Appropriation of Private Property for Streets, etc.—Conveyances.**—SEC. 3. The city of Whatcom shall have power to purchase or condemn and enter upon and take any land within its territorial limits for public squares, streets, parks, cemeteries, hospital grounds, within or without such limits, to be used for workhouses or houses of correction, or any other proper and legitimate municipal purposes, and to inclose, ornament and improve the same, and to erect necessary public buildings thereon. The city shall have entire control of all such buildings, and all lands purchased or condemned under the provisions of this section, and of all streets, highways, squares and other public grounds within its limits, established or appropriated to public use by authority of law, or which have been or may hereafter be dedicated to public use by any person or persons, and has power in case such lands are deemed unsuitable or insufficient for the purposes intended, to dispose of and convey the same; and conveyances of such property, executed in the same manner that may be prescribed by ordinance, shall vest in the purchaser all the right, title and interest of the city therein.

\* \* \* \* \*

**§ 5. Opening, Improving Streets, etc.: Taxation for.**—SEC. 5. The city of Whatcom shall have power to provide for clearing, opening, grading, graveling, improving and repairing streets, highways and alleys, and for the prevention and removal of all obstructions therefrom, and from any side or crosswalk; also to regulate cellar ways, cellar lights and sidewalks within the city, and to provide for cleaning the streets, and for constructing sewers, and cleaning and repairing the same; and shall have power to assess, levy and collect each year, a road poll tax of not less than four nor more than six dollars on every male inhabitant of the city between the ages of twenty-one and fifty years, except active or exempt firemen and persons that are a public charge; and there shall not be levied or collected by the county of Whatcom or the officers thereof, any road tax or road poll tax or bridge tax upon the property or inhabitants within the city: *Provided*, That in the grading of any street the city council shall remove the earth from line to line the full width of the street.

\* \* \* \* \*

**§ 6. Establishing Grade of Streets, etc.—Appropriation of Private Property for.**—SEC. 7. The city of Whatcom shall have power to provide for the survey of the blocks and streets of the city, and for making and establishing the boundary lines of such blocks and streets, and to establish the grades of all streets within the city, and to lay off, widen, straighten, name, change, extend, vacate and establish streets, highways, alleys and all public grounds, and to provide for the condemnation of such real estate as may be necessary for such purposes, and to levy and collect assessments upon all property benefited by any change or improvements authorized by this section, to be applied on compensation of property so condemned or damaged.

\* \* \* \* \*

**§ 7. May Adopt Proper Ordinances.**—SEC. 17. The city of Whatcom shall have power to adopt proper ordinances for the government of the city, and to carry into effect the power given by this act. \* \* \*

\* \* \* \* \*

**§ 8. Incidental Powers.**—SEC. 18. The city of Whatcom shall have \* \* \* such other powers and privileges not herein specially enumerated as are incident to municipal corporations of like character and degree not inconsistent with the laws of the United States or of this Territory, and as may be necessary for carrying into effect the provisions of this act, according to the true intent and meaning thereof: \* \* \*

\* \* \* \* \*

§ 9. **Constructing, etc., Sidewalks and Paving, etc., Streets, etc.: Taxation for.**—SEC. 20. The city of Whatcom shall have power to construct and repair sidewalks, and to curb, pave, grade, gravel, bridge and gutter any street or streets, highway or highways, alley or alleys within the city or any part thereof, and to levy and collect a special tax or assessment on the lots and parcels of land fronting on such street or streets, highway or highways, alley or alleys, or any part thereof, sufficient to pay the expense of construction of said sidewalks and graveling or bridging or paving said streets and alleys, and for that purpose may establish assessment districts, consisting of the whole, or any portion, of such street or streets, highway or highways, alley or alleys, or of several streets, highways and alleys as may be deemed advisable. But unless the owners of more than one-half of the property subject to assessment for such improvement, petition the council to make the same, such improvement shall not be made until two-thirds of all the members of the council by vote authorize the making of the same.

\* \* \* \* \*

CHAPTER III.

§ 10. **Government.**—SECTION 1. The power and authority given to the city of Whatcom by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned, or may be created under its authority.

\* \* \* \* \*

§ 11. **Officers.**—SEC. 5. There shall be elected \* \* \* a city clerk, city marshal, city treasurer, \* \* \* city assessor, street commissioner and city surveyor, who shall be officers of the municipal corporation.

\* \* \* \* \*

CHAPTER VI.

§ 12. **Powers of the Council.**—SECTION 1. The city council shall possess all the legislative powers granted by this act, and all other corporate powers of the city not herein, or by some ordinance of the city, conferred on some other officers.

\* \* \* \* \*

§ 13. **Equalization of Taxes.**—SEC. 5. The common council shall have power to equalize taxes upon the assessment roll of the city at any time prior to the day fixed for taxes becoming delinquent: *Provided*, That ten days' notice by publication, or written or personal service, shall be given to any person whose name it is proposed to add to the list, or to any person whose assessment it is proposed to increase, citing him to come forward and show cause, if any there be, why such action should not be taken by said common council.

\* \* \* \* \*

§ 14. **Duties of Marshal.**—SEC. 23. The city marshal shall collect all delinquent taxes and assessments when required by warrant, \* \* \*

\* \* \* \* \*

§ 15. **Duties of Assessor.**—SEC. 26. The city clerk may be appointed city assessor, whose duty it shall be to annually make a correct list of all the property within the corporate limits of the city subject to taxation by the city, with the valuation thereof, and certify and return the same to the council on or before the first meeting of the council in April of each year: *Provided, however*, That such certificate and return shall be made to the city clerk unless said clerk be acting city assessor: *And, provided further*, That such list of property and valuation may be taken from the certified returns of the county assessor, if so prescribed by the council.

§ 16. **Manner of Assessment.**—SEC. 27. The assessment must be made on the property and in the manner designated and prescribed by

law for assessing property for Territorial and county taxes, but the form of the assessment roll and the rule for ascertaining the ownership of property and in whose name it may be assessed, may be prescribed by ordinance.<sup>2</sup>

\* \* \* \* \*

#### CHAPTER VIII.

§ 17. **Ordinances.**—SECTION 1. The style of every ordinance shall be, "The city of Whatcom does ordain as follows." No ordinance shall contain more than one subject which shall be clearly expressed in the title, and when only a section of an ordinance is repealed, the repealing ordinance shall specify particularly what section is to be repealed by repeating it, but when the whole ordinance is to be repealed, it shall be sufficient to name it by title and number.<sup>3</sup>

\* \* \* \* \*

#### CHAPTER X.

\* \* \* \* \*

§ 18. **Assessment of Acreage.**—SEC. 2. All real property within the limits of the city of Whatcom not laid off in blocks or lots at the time of making any assessment authorized by this act, must be assessed at its cash value per acre or fractional part thereof as the case may be.

§ 19. **Regulation and Control of Additions to the City.**—SEC. 3. The city of Whatcom may regulate and provide as to the manner in which all additions to the city shall be subdivided into lots, blocks, streets and alleys, and the width, distance apart and direction of each street and alley, and the manner in which a plat shall be made thereof, and where filed and the kind of monuments in all parts of the city, and place and manner of erection and maintenance thereof, to prevent mistakes and confusion of boundaries; and may cause an official map of said city to be made and kept for public inspection, which plat, certified by the city surveyor, shall be *prima facie* evidence that the lines as they thereon appear are correct; and all surveys made by the city surveyor whatever at the instance and expense of the city, or private parties, shall be official surveys, and a minute thereof shall be kept by the city surveyor as a part of his official records, and shall be *prima facie* evidence of their own correctness; and the city has power to enforce this ordinance and the selling of any real property not subdivided as aforesaid and plat made and filed as above provided, and to compel the establishment and maintenance of such monuments, and to fine, or imprison, or both, for violation thereof; and when the boundary or existence of any public street, alley, easement or square is in doubt, and the land claimed by a private party, the city may file a bill in equity to determine the right thereto.

§ 20. **May Include Certain Additions Within Limits.**—SEC. 4. Whenever an addition to said city shall be platted and recorded in the office of the county auditor of Whatcom county as required by law, then and in that case, the city of Whatcom shall have power by ordinance to include such addition within the corporate limits thereof: *Provided always*, That such addition is joined to the already established boundaries of said city.

\* \* \* \* \*

<sup>2</sup> Chapter VII of this act, relative to the collection of delinquent taxes, is *verbatim* as §§ 21 to 33 of No. 748, *supra*, except at end of § 28 instead of "laws aforesaid" read "laws of the Territory," and in § 33 instead of "Olympia" read "Whatcom."

<sup>3</sup> Chapter IX of this act, relative to street improvements, is *verbatim* as §§ 34 to 50 inclusive, and § 53, of No. 748, except § 34 omit "as authorized by sections five, six, seven, eight, nine and ten of said act," and § 37 omit "and representing one half of the property on said street or alley," and § 37 instead of "as herein provided" read "in direction of the council," and § 38 instead of "section 96" read "section 4 of this chapter," and instead of "Thurston" read "Whatcom."



**No. 816.**—AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE CITY OF WHATCOM, APPROVED NOVEMBER 28, 1883.

§ 1. *Be it enacted, etc.*

§ 2. **Government and Officers.**—SEC. 3. That chapter three of said act<sup>2</sup> be amended to read as follows: Section 1. The power and authority given to the city of Whatcom by this act shall be vested in a mayor and common council, together with such other officers as are in this act mentioned, or may be created under its authority. \* \* \* Sec. 5. At each annual municipal election there shall be elected by the city at large, a city marshal, city treasurer, city surveyor, and when so ordered by the common council, a city assessor. Sec. 6. There shall be elected, \* \* \* a city clerk, \* \* \* and a street commissioner, who shall be officers of the municipal corporation. \* \* \*

§ 3. **Duties of Assessor.**—SEC. 5. That section twenty-six of chapter six of said act<sup>3</sup> be amended to read as follows: Sec. 26. Unless the common council order the election of a city assessor at the regular annual municipal election, the city clerk shall be *ex-officio* city assessor. It shall be the duty of the city assessor to annually make a correct list of all property within the corporate limits of the city subject to taxation by the city with the valuation thereof, which list and valuation shall be taken from the certified return of the county assessor of Whatcom county for that year, and shall certify and return such list to the common council on or before the first regular meeting of said council in April of each year: *Provided*, That any property in the corporate limits of said city subject to taxation by the city, which is not contained in the certified returns of said county assessor, shall be included in and placed on the list prepared by the city assessor, who shall place the valuation on the same and shall certify and return the same to the common council with the other property contained in his list.

§ 4. **Effect of Remonstrance.**—SEC. 6. That section two of chapter nine of this act<sup>4</sup> be amended to read as follows: Sec. 2. If within ten days from the final publication of such notice, two-thirds in number of the persons owning property on the street or alley sought to be assessed, or the person or persons owning property on said street or alley representing more than one-half of the property on said street or alley sought to be assessed, shall file a remonstrance against said improvement, grade or alteration, the same shall not be further proceeded with.

§ 5. **Effect of Failure to Remonstrate.**—SEC. 7. That section three of said chapter nine be<sup>5</sup> amended to read as follows: Sec. 3. If no such remonstrance be made and filed as in the last section provided, the common council, at its earliest convenience thereafter and within four months from the final publication of said notice, may, by resolution or ordinance, establish the proposed grade or alteration thereof, and order the work of grading, paving or otherwise improving the same to be done, and the cost of such grading, paving or other improvement, exclusive of the expense of surveying and advertising, shall be assessed upon the property fronting on both sides of the street or alley between the points proposed to be improved: *Provided*, That all lots, blocks and lands from the side lines of the street or alley to be improved, back to the middle of

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 425) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 815, *supra*. See also 748, *supra*.

<sup>3</sup> See No. 815, § 15.

<sup>4</sup> See No. 815, Note 3, and No. 748, § 35.

<sup>5</sup> See *id.*, § 36.

each block abutting on the street or alley to be improved, shall be construed to be fronting on such street or alley and shall be assessed for its proportion of the cost of such grading, paving or other improvement.

**§ 6. Appraisement and Assessment of Abutting Property.**—SEC. 4. That section four of said chapter nine<sup>6</sup> be amended to read as follows: Sec. 4. When the common council shall, by resolution or ordinance, order the improvement of any street or alley by the construction of sidewalks, grading, paving or otherwise improving the same, it shall designate the street, or alley or the portion thereof, on which the work is to be done and the points of commencement and termination of such work, and shall declare that the same is to be performed in accordance with the specifications prepared by the city surveyor. It shall be the duty of the city surveyor to prepare such specifications when ordered by the common council, which specifications shall require each bidder to designate separately in his bid the amount for which he will perform the work and furnish the material required for grading, paving or otherwise improving the squares or spaces formed by the junction of two or more streets and the amount for which he will perform the work and furnish the required material for grading, paving or otherwise improving such street or alley in front of the lots, blocks or lands abutting on the street or alley to be improved, graded or paved, which specifications shall be submitted to the council and if the same be approved by the council they shall be filed in the office of the city clerk. The common council shall thereupon advertise in the newspaper doing the city printing for a period of not less than fifteen days for proposals for doing such work and furnishing the materials therefor in accordance with the specification. It shall not be necessary to advertise the specification but the advertisement shall refer to them as being on file in the office of the city clerk. The contract shall be awarded to the lowest responsible bidder for the labor and the kind of material selected, but the council may, in its discretion, reject any or all bids and advertise for further proposals, until a satisfactory bid is obtained. A good and sufficient bond shall in all cases be required from the successful bidder for the faithful performance of the work in such amount as the council may require. The cost of providing crosswalks and of grading, paving, or otherwise improving the squares or spaces formed by the junction of two or more streets or alleys shall be paid by the city out of the general fund, and such cost shall not be included in the assessment against the lots, blocks or lands fronting on the street or alley to be improved, and the lots, blocks or lands fronting on such street or alley shall be assessed only for such portion of the cost of grading, paving or otherwise improving the same, as is not included in the squares or spaces aforesaid. When the whole cost of such grading, paving or other improvement shall have been thus ascertained, the council shall cause an appraisement of the lots and lands fronting on said street or alley adjacent to said improvement and assessable for the cost thereof as follows: An assessor shall be appointed by the council and sworn to appraise all lots and parts of lots and lands irrespective of improvements or structures thereon, and the whole cost of said paving, grading or other improvement shall be assessed *pro rata* on said lots or parts thereof, and land as aforesaid according to the appraised value thereof, which apportionment shall be made by the common council by ordinance, and a tabulated statement thereof shall be made out by the city clerk and filed in his office for the information of all persons concerned, and a notice thereof shall be published in the newspaper doing the city printing for two weeks. Such statement shall show the name of the owner of each lot, if known, the number and frontage of each lot, part of lot or other land, the number of the block, if numbered, and the appraised value of such lots, part of lots and other land, respectively.

\* \* \* \* \*

<sup>6</sup> See *ibid.*, § 37.

§ 7. **Collection of Assessments.**—SEC. 10. That section seven of said chapter nine<sup>7</sup> be amended to read as follows: Sec. 7. When the city council shall have duly approved of said assessment and apportioned the cost of the improvement, they shall by ordinance establish the same and require the payment of said assessment within thirty days from the approval thereof, and shall give notice in the newspaper doing the city printing, by at least two weekly publications, that said assessment is due and payable to the city treasurer. The city clerk shall make out and deliver to the city treasurer a copy of said appraisal and assessment, who shall proceed to collect in the same manner as other city taxes, except as herein otherwise provided.

§ 8. **Warrant for Collection.**—SEC. 11. That section eight of said chapter nine<sup>8</sup> be amended to read as follows: Sec. 8. If within thirty days after the first publication of said last named notice, the sum assessed upon any lot, part of lot or other land is not paid to the treasurer, the city council may at any time thereafter order a warrant for the collection of the same, to be issued by the city clerk, directed to the city marshal.

\* \* \* \* \*

<sup>7</sup> See *ibid.*, § 39.

<sup>8</sup> See *ibid.*, § 40.

## CHAPTER XXVI.—CITY OF YAKIMA AND NORTH YAKIMA.

### No. 817.—AN ACT TO INCORPORATE THE CITY OF YAKIMA.<sup>1</sup>

#### ARTICLE I.

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the city of Yakima shall embrace and include the following described territory, to wit: Commencing at a point in the center of the main channel of the Yakima river, opposite the middle of the main channel of the Ahtanum creek; thence up the middle of the main channel of said Ahtanum creek to where the section line between sections seven and eight (7 and 8), in township twelve (12) north, of range eighteen (18) east of the Willamette meridian intersects said Ahtanum creek; thence north on said section line to the third standard parallel; thence east, on said third standard parallel to where the same crosses the Yakima river; thence down the middle of the main channel of the Yakima river to the point of beginning.

§ 2. **General Powers.**—SEC. 2. The inhabitants of the city of Yakima, within the limits above described, shall be and are hereby constituted a body politic and corporate in fact and in law, by the name and style of the "City of Yakima," and by that name and style they and their successors shall be known in law, have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and in all suits and actions whatsoever; may purchase, acquire, receive and hold property, real, personal and mixed, for the use of the city; may lease, sell and dispose of the same for the benefit of the city; may purchase, acquire, receive and hold real property beyond the limits of the city to be used for burial purposes; also for the establishment of a hospital for the reception of persons affected with contagious or other diseases; also for work houses or houses of correction; also for the erection of water works to supply the city with water; and may sell, lease or dispose of them for the benefit of the city; or contract for the city sup-

<sup>1</sup> Approved Nov. 23, 1883. (See Ninth Bien. Sess. 1883, p. 206.) All conflicting acts and parts of acts repealed. In effect from date.

ply of water for domestic purposes, and for irrigation and for the extinguishment of fires; and they shall have and use a common seal, and may alter and amend the same and make a new one at pleasure.

#### ARTICLE II.

§ 3. **Government.**—SECTION 1. The government of said city shall be vested in a mayor, a common council, consisting of five members, who shall be elected by the qualified voters of said city, and shall hold their offices until ten days after the next annual election, and until their successors shall be elected and qualified.

\* \* \* \* \*

#### ARTICLE III.

\* \* \* \* \*

§ 4. **Officers.**—SEC. 2. There shall be a city treasurer, clerk and marshal,

\* \* \* \* \*

§ 5. **Duties of Assessor and Marshal.**—SEC. 4. The clerk shall \* \* \* be *ex-officio* assessor of the city and within such time as shall by ordinance be provided, make out and return to the common council a correct list of all the taxable property within the limits of the city, with the valuation thereof and the names of the persons to be taxed therefor. The mode of making said lists, ascertaining the value of the property and collecting the taxes shall, as nearly as may be practicable, be the same as prescribed by law for assessing and collecting Territorial and county taxes. \* \* \* The marshal shall \* \* \* collect city taxes. \* \* \*

\* \* \* \* \*

#### ARTICLE VI.

§ 6. **Powers of the Council.**—SECTION 1. The mayor and common council shall have power within the city — (1) To make by-laws and ordinances not repugnant to the laws of the United States or this Territory. (2) To levy and collect taxes not exceeding one per cent. per annum upon all property made taxable by law for county and Territorial purposes. \* \* \* (14) To remove all obstructions from the streets, alleys, side and crosswalks, and provide for the construction, cleaning and repair of the same, as well as all sewers, gutters, water courses and under ground drainage, and to require parties owning or occupying premises to clean and remove obstructions from streets, alleys, cross and sidewalks, adjoining the property owned or occupied by them, and to levy a tax on persons and property particularly benefited by the construction or repair of streets, side and crosswalks, sewers and gutters and drains, with or without a general tax, for general benefit of such works. \* \* \* (19) To prescribe the manner of building party walls and fences. \* \* \* (22) To provide for the collection and receiving by said city of all poll taxes, all road taxes and road labor and the expenditure and using the same upon the roads and streets of the city, and for this purpose the city shall constitute a road district.

\* \* \* \* \*

§ 7. **Style of Ordinances.**—SEC. 5. The style of the city ordinances shall be, "The people of the city of Yakima do ordain as follows."

\* \* \* \* \*

**No. 818.—AN ACT TO INCORPORATE THE CITY OF NORTH YAKIMA AND TO PARTICULARLY DEFINE THE POWERS THEREOF.<sup>1</sup>**

CHAPTER I.

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. That the corporate limits of the city of North Yakima shall be and the corporate boundaries thereof shall include the following legal subdivisions of land, to wit: All of section nineteen (19), township thirteen (13) north, range nineteen (19) east, save and except the east half of the northeast quarter of said section nineteen (19); and all of the southwest quarter and the south half of the northwest quarter of section eighteen (18), township thirteen (13) north, range nineteen (19) east, and all of the southeast quarter of section (13), township (13) north, range eighteen (18) east, and all of the east half of section twenty-four (24), township thirteen (13) north, range eighteen (18) east.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 27, 1886. (See Tenth Blen. Sess. 1885-86, p. 373.) This No. after the section here given is *verbatim* as No. 813, except wherever in said No. the words "city of Walla Walla" occur read "city of North Yakima;" and wherever the words "county of Walla Walla" occur read "county of Yakima;" and § 3 of said No. at <sup>2</sup> instead of "one-half per centum" read "one per centum;" and § 6 at <sup>3</sup> instead of "one" read "or;" and § 9 at <sup>4</sup> all of the proviso to the end of the § is omitted; and § 11 at <sup>5</sup> instead of "annual election" read "annual or special election;" instead of § 12 read as follows: "The city of North Yakima shall have power to acquire by purchase or otherwise water ditches for irrigation, domestic or other purposes, and may acquire title to all ditches now constructed within the corporate limits of said city, and the same when so acquired are to be held forever by said city for the inhabitants of said city for their use for such purposes, said city to regulate and control the use thereof, and said city may acquire by purchase or otherwise a sufficient quantity of water and convey the same in said ditches for any or all such purposes," and in § 16 the words "city surveyor" and "assessor" are omitted; and § 18 at <sup>6</sup> instead of "assessor" read "clerk;" and § 22 at <sup>7</sup> instead of "lands abutting" read "land and improvements abutting;" and at <sup>8</sup> instead of "one hundred and twenty feet" read "one hundred and forty feet;" and instead of §§ 38, 39, 40, read as follows: "Sec. 100. This act is hereby declared a public act;" and § 42 instead of "\$50,000.00" read "(10,000) ten thousand dollars" and instead of as provided in § 44 this act is in effect from date.



## TITLE II.—CORPORATIONS: PRIVATE.

## CHAPTER I.—AGRICULTURAL SOCIETY OF WASHINGTON TERRITORY.

No. 819.—AN ACT TO INCORPORATE THE AGRICULTURAL SOCIETY OF WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Gilmore Hays, Rodolph M. Walker, Calvin H. Hale, Alexander S. Abernathy, Jefferson Huff, Seth Catlin, Nathaniel Hill, Richard H. Landsdale, Thomas M. Chambers, Arthur A. Denny, J. C. Davis, John Moore, George Drew, John R. Jackson, Henry R. Stillman, H. D. Huntington, Nathaniel Stone, Columbia Lancaster, Wm. Dillon, Henry Smith, H. Van Assett, T. J. Chambers, J. Alexander and Daniel F. Bradford, their associates and successors, be and they are hereby declared a body politic and corporate under the name and style of the "Agricultural Society of Washington Territory."

\* \* \* \* \*

§ 2. **General Powers.**—SEC. 3. The said corporation shall possess all the powers and privileges incident to such bodies, and be subject to all the liabilities imposed upon corporations by the organic act of this Territory, and may pass by-laws for their government, and perform all other acts not in violation of or inconsistent with the constitution of the United States, the organic act and the laws of this Territory.

\* \* \* \* \*

§ 3. **Branch Societies.**—SEC. 5. The said society shall, by its constitution or by-laws, provide the times of meeting, and may from time to time institute and organize branch auxiliary societies or lyceums for the various counties of the Territory.

§ 4. **Date in Effect—Right of Repeal.**—SEC. 6. This act to take effect and be in force from and after its passage, and may be amended, altered or repealed by any future legislature.

<sup>1</sup> Passed Jan. 19, 1855. (See Second Reg. Sess. 1854-55, p. 57.)

## CHAPTER II.—ALPHEAN LIBRARY ASSOCIATION.

No. 820.—AN ACT TO INCORPORATE THE ALPHEAN LIBRARY ASSOCIATION OF OLYMPIA.<sup>1</sup>

§ 1. **Incorporators—Name.**—*Be it enacted, etc.,* [That] T. M. Reed, B. C. Lippincott, Wm. M. Rutledge, U. E. Hicks, D. Ellis Willes, G. F. Boynton, S. Garfield, W. G. Dunlap and B. P. Anderson, and their associates and successors, be and they are hereby constituted and declared a body corporate and politic under the name and style of the "Alphean Library Association."

§ 2. **General Powers.**—SEC. 2. Said association may, in its corporate name, sue and be sued, plead and be impleaded, defend and be defended

<sup>1</sup> Passed Jan. 15, 1861. (See Eighth Reg. Sess. 1860-61, p. 93.)

against in all the courts of law in this Territory, and may receive and hold all moneys and other property coming into the hands of said association by voluntary subscriptions, contributions or otherwise; also, all legacies and devises of real or personal estate, and to have and to hold, possess, use and acquire lands and tenements, goods, chattels and property of any description, which may be useful and incident to such associations, to any amount not exceeding twenty-five thousand dollars, and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem proper.

\* \* \* \* \*

§ 4. **Right of Appeal.**—SEC. 4. This act, for good cause shown, may be altered, amended or repealed by any subsequent Legislature.

### CHAPTER III.—CALIFORNIA STATE TELEGRAPH COMPANY.

#### No. 821.—AN ACT TO INCORPORATE THE CALIFORNIA STATE TELEGRAPH COMPANY.<sup>1</sup>

§ 1. **Name—General Powers.**—SECTION 1. *Be it enacted, etc.,* That the California State Telegraph Company, a company formed within the State of California and having its principal office in the city of San Francisco, and doing business within the Territory of Washington, is hereby declared to be duly incorporated under its present corporate name, style and organization, and the right is hereby granted to said company to acquire, own and enjoy, and to dispose of any and all such property, real and personal, franchises and privileges as may be proper or convenient for the transaction of its business, and for effectually carrying out the objects and purposes of said company as fully and completely as if said company had been originally formed and duly incorporated under the laws of this Territory, thereby conferring upon said company as ample power to do and transact business and maintain its rights in all courts and places as is or may be possessed by domestic corporations or natural persons.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 18, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 195.)

### CHAPTER IV.—CASCADE RAILROAD COMPANY.

#### No. 822.—AN ACT ENTITLED AN ACT TO INCORPORATE THE "CASCADE RAILROAD COMPANY."<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That B. B. Bishop, William H. Fauntleroy and George W. Murray and their associates, owners of the land bordering on the Cascades of the Columbia river, in Washington Territory, their heirs and assigns, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the "Cascade Railway Company." The said road to be used for the transportation of freights, passengers and mails, and to be constructed between the navigable waters above and below the "Cas-

<sup>1</sup> Passed Jan. 31, 1859. (See Sixth Reg. Sess. 1858-59, p. 37.)

cards." The said Bishop, Fauntleroy and Murray having power to select for said purpose the most convenient, economical and practicable site for said road of thirty feet in width, together with one acre of land immediately adjoining. \* \* \*

\* \* \* \* \*

§ 2. **General Powers.**—SEC. 8. The "Cascade Railroad Company" is hereby authorized and empowered to have and to receive, purchase and possess, enjoy and retain, lands, lots, tenements, goods, chattels, rents and effects of every kind, and to any amount necessary to carry into effect the objects of said company, and the same to use, alien, sell and dispose of at pleasure, to sue and be sued in any court having competent jurisdiction, to have and to use a common seal, to ordain and establish such rules, regulations and by-laws as may be necessary for the well being of said corporation, subject to the constitution of the United States and the laws of this Territory.

\* \* \* \* \*

§ 3. **Appraisement and Settlement of Damages Right-of-Way, etc.**—SEC. 9. In the event of the survey of said road embracing the land of settlers and owners, parties failing to agree, the district court shall have power to appoint three citizens of Washington Territory (freeholders), who shall assess the damages and the amount of money to be paid to the owner by the company, it being obligatory on the persons so appointed to furnish to the owner of said property so taken or damaged a copy of their proceedings relating to the owner's particular property; if the owner of this property thinks his property has been assessed below its value, he shall have the privilege of providing testimony before the district court, and the judgment shall be final, except the parties shall appeal the case to the supreme court of the United States; but on the judgment of the district court the company shall be placed in possession of the land and the property, having full power to proceed with the construction of the road and the necessary buildings, as per charter.

## CHAPTER V.—CEDAR RIVER LOG DRIVING COMPANY.

### No. 823.—AN ACT TO INCORPORATE THE CEDAR RIVER LOG DRIVING COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That T. D. Hinkley, J. S. Hurd, Perry Dunfield, A. Hart and Richard King, their associates and legal representatives, be and hereby are constituted a body corporate and private, with power to sue and be sued under the name and style of the Cedar River Log Driving Company, for the purpose of removing jams and other obstructions to driving or floating logs and timber down the Cedar river, in King county, W. T., into the Duwamish river.

\* \* \* \* \*

§ 2. **Term of Privileges.**—SEC. 5. The privileges granted by this act to said corporation, their associates, legal representatives and assigns shall be continued to them in the full enjoyment thereof, for the term of ten years from the passage of this act.

§ 3. **Settlement of Damages for Taking Lands.**—SEC. 6. The provisions of this act shall not be so construed as to empower the incorpo-

<sup>1</sup> Passed Jan. 25, 1864. (See Eleventh Reg. Sess. 1863-64, p. 98.) In effect from date.

rators to enter upon improved lands without making due compensation therefor, said compensation to be determined as follows: The corporation shall select one person, the adverse party shall select one person, and the two thus selected shall select a third, and the said persons shall assess the damages, and their award shall be final.

\* \* \* \* \*

## CHAPTER VI.—CHAMBERS' PRAIRIE CEMETERY ASSOCIATION.

### No. 824.—AN ACT TO INCORPORATE THE CHAMBERS' PRAIRIE CEMETERY ASSOCIATION.<sup>1</sup>

§ 1. **Incorporators — Name.**—SECTION 1. *Be it enacted, etc.*, That Henry Parsons, S. L. Ruddell and G. W. White, their associates and assigns, be and they are hereby constituted a body politic and corporate under the name and style of the Chambers' Prairie Cemetery Association, with full power to sue and be sued, plead and be impleaded, defend and be defended against in all the courts of this Territory.

§ 2. **Powers.**—SEC. 2. It shall be lawful for the said corporators, their associates or assigns, to have and to hold a tract or parcel of land on the donation land claim of S. D. Ruddell, on the prairie aforesaid, for the purpose of a cemetery: *Provided*, That no charges be made for interment in said cemetery.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 24, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 190.) In effect from date.

## CHAPTER VII.—CHEHALIS MANUFACTURING AND NAVIGATION COMPANY.

### No. 825.—AN ACT TO INCORPORATE THE CHEHALIS MANUFACTURING AND NAVIGATION COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name — Powers.**—SECTION 1. *Be it enacted, etc.*, That S. S. Ford, Courtland Ethridge, A. J. Miller, J. Boise, O. B. McFadden, S. S. Ford, jr., J. Brady, S. Benn, Reuben Redmond and G. W. Biles, together with all other persons who shall become associated with them by subscribing to the capital stock of said company, and their successors, be and are hereby constituted and declared a body corporate and politic by the name and style of the Chehalis Manufacturing and Navigation Company, for the purpose of manufacturing lumber and flour, developing the agricultural resources of Chehalis valley, and navigating the waters of Gray's Harbor and its tributaries by steam or other vessels, for the transportation of freight and passengers; and said company is hereby authorized and empowered to have and to receive, purchase and possess, enjoy and retain lands, tenements, goods, chattels, rents, and effects of any kind and to any amount necessary to carry into effect the objects of said corporation, and the same to use, alien, sell and dispose of at pleasure; to sue and be sued in any court having competent

<sup>1</sup> Approved Jan. 18, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 196.) In effect from date.

jurisdiction; to have and use a common seal; to ordain and establish such rules, regulations and by-laws as may be necessary for the well-being of said corporation, subject, however, to the constitution of the United States, the laws of this Territory, and the restrictions and limitations contained in this act.

\* \* \* \* \*

§ 2. **Taxation.**—SEC. 5. Said company shall be subject to the provisions of any law that now is, or may hereafter be, enacted regulating the mode of taxation.

\* \* \* \* \*

### CHAPTER VIII.—CHEHALIS STEAMBOAT NAVIGATION COMPANY.

#### No. 826.—AN ACT TO INCORPORATE CHEHALIS STEAMBOAT NAVIGATION COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—Powers.**—SECTION 1. *Be it enacted, etc.* That Thomas Wright, together with all other persons who shall become associated with him, be and he or they, their assigns and successors, are hereby constituted and declared a body corporate and politic, by the name and style of the "Chehalis Steamboat Navigation Company," for the purpose of improving the Chehalis river for navigation so as to render it navigable for steamboats from the mouth of Chehalis river to Davis' landing (and further up and down when said river will permit navigation), and for keeping on said river a steamboat or steamboats suitable for, capable of, and to be used in, the transportation of freight and passengers to and from "Chehalis Point," on Gray's Harbor, to Davis' landing, as above mentioned, and all intermediate points or places on said river and harbor, as is necessary for the general accommodation of the public: \* \* \*

\* \* \*

<sup>1</sup> Passed Jan. 30, 1860. (See Seventh Reg. Sess. 1859-60, p. 459.) In effect from date.

### CHAPTER IX.—CLICKATAT WOOD-FLOATING COMPANY.

#### No. 827.—AN ACT TO INCORPORATE THE "CLICKATAT WOOD-FLOATING COMPANY."<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.* That Albert G. Davis, J. H. Lasater and those who may think proper to associate with them, be and they are hereby declared a body corporate and politic by the name and style of the "Clickatat Wood-Floating Company." \* \* \*

\* \* \*

§ 2. **General Powers.**—SEC. 4. *Be it further enacted,* That said corporation shall have power to acquire property, personal, real and mixed, and the same to sell and dispose of at pleasure.

\* \* \*

<sup>1</sup> Passed Jan. 29, 1864. (See Eleventh Reg. Sess. 1863-64, p. 155.) In effect from date



§ 3. **General Powers.**—SEC. 5. *Be it further enacted*, That said corporation shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in all the courts of law and equity in this Territory; that said corporation may have a common seal, inscribed with such letters or devices as they may direct, and the same to alter at pleasure; that all sales of said corporation shall pass and be confirmed by said seal; that said corporation shall have power to elect such officers as they may deem for the best interest of said corporation, and they may make such by-laws as they may deem for the best interest of said corporation, and not inconsistent with the constitution of the United States and laws of the same, the organic law of Washington Territory and general laws of the same.

\* \* \* \* \*

## CHAPTER X.—COAL CREEK ROAD COMPANY.

### No. 828.—AN ACT TO INCORPORATE THE COAL CREEK ROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted etc.*, That Wm. W. Perkins, John Denny, Henry L. Yesler, John J. McGilvra, C. J. Noyes, C. H. Hale and Lewis C. Gunn, and such other persons as they may associate with them, their heirs, successors and assigns, be and they are hereby constituted and declared a body politic and corporate by the name and style of the "Coal Creek Road Company."

§ 2. **General Powers.**—SEC. 2. Said corporation shall have full power to survey, locate, re-locate, own, construct, maintain, repair and use a rail or tram road between a point to be selected by said corporation on Lake Washington, in King county, near the outlet of Coal creek, and a point to be selected by said corporation in section twenty-seven, township twenty-four north of range five east of the Willamette meridian; and for the purpose of locating such rail or tram road, may select and appropriate in the manner hereinafter provided, a strip of land not exceeding one hundred feet in width between the termini of said road; also lands at or about the termini of said road sufficient for warehouses, wharf boats and steamboat landings, and also at any and all points along the line of said road survey for the purpose of building warehouses, stationhouses and fixtures necessary for the operation of the business of said road, not to exceed ten acres at any one point, together with the privilege of making drains and giving proper direction to water courses and removing obstructions, subject, however, to the payment of such compensation as the company may have agreed upon to pay therefor, or such as shall be ascertained in the manner hereinafter named: *Provided*, That no other road shall be located, laid out or built within fifty feet from and parallel to said Coal Creek Road Company's line of road. Said corporation may sue and be sued, contract and be contracted with; to have and receive, purchase and possess, retain and enjoy property, real, personal and mixed, and the same to use, sell and dispose of at pleasure; may have a common seal and change the same at pleasure, and may make rules and by-laws for the management of its concerns.

\* \* \* \* \*

§ 3. **Date in Effect—Term in Existence.**—SEC. 11. This act to take effect and be in force from and after its passage, for and during a period of twenty-five years.

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 202.)

## CHAPTER XI.—COLUMBIA RIVER INSTITUTE.

**No. 829.—AN ACT TO INCORPORATE THE COLUMBIA RIVER INSTITUTE.<sup>1</sup>**

**§ 1. Incorporators—Name.**—*Be it enacted, etc.,* That there shall be established in the city of Vancouver, in the county of Clarke, an institution of learning to be called the "Columbia River Institute," and that Columbia Lancaster, Lewis Love, James Turnbull, G. W. Vaughn, C. B. Preston, Hiram Cochran, John D. Biles, John Aird, J. S. Taylor, H. M. Knight, J. W. Nye, Lewis Van Vleet, A. R. Burbank, Seth Catlin, sr., A. S. Abernethy, John Briscoe, Lyman Shaffer, James Biles and Daniel F. Bradford, as trustees, and their associates and successors, are hereby declared and constituted a body corporate and politic in law, by the name and style of the "Columbia River Institute."

**§ 2. General Powers.**—**SEC. 2.** Said corporation shall have continual perpetual succession, and shall have power to acquire, receive and possess by donation, gift or purchase, and to retain and enjoy property, real, personal and mixed, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure: *Provided*, That no part of the resources thereof, shall ever be used for any other than educational purposes, as is herein contemplated: *And provided further*, That the yearly income accruing from said property to said institution, shall not exceed ten thousand dollars. Said corporation shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in all courts of justice, both at law and in equity. They shall cause to be made for their use a common seal, impressed with such devices and inscriptions as they shall deem proper, by which said seal all deeds and acts of said corporation shall pass and be authenticated, and they shall have power to form and adopt a constitution and by-laws for their government, to make and carry into effect all necessary regulations for the management of their fiscal concerns, to appoint subordinate officers and agents, to make, ordain and establish such ordinances, rules, and regulations, as they may deem necessary or expedient for the good government of said institution, its officers, teachers and pupils: *Provided*, That said ordinances, rules and regulations shall, in no manner conflict with the constitution of the United States nor the laws of this Territory.

\* \* \* \* \*

**§ 3. How Deeds Executed.**—**SEC. 4.** All deeds and other instruments of conveyance shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president and by him acknowledged in his official capacity.

**§ 4. Right of Repeal.**—**SEC. 5.** That the legislature shall have power at any subsequent session, when the necessities of the institution or the considerations of public good require it, to alter or amend this act at pleasure.

<sup>1</sup> Passed Jan. 16, 1861. (See Eighth Reg. Sess. 1860-61, p. 95.)

CHAPTER XII.—COLUMBIA TRANSPORTATION COMPANY.

**No. 830.—AN ACT TO INCORPORATE THE COLUMBIA TRANSPORTATION COMPANY OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

**§ 1. Purpose—Name.**—SECTION 1. *Be it enacted, etc.,* That for the purpose of facilitating the conveyance of passengers and freight from the seaboard to the interior of the Territory, there shall be and hereby is created a Transportation Company, with corporate powers, under the name and style of the "Columbia Transportation Company of the Territory of Washington."

**§ 2. Incorporators—General Powers.**—SEC. 2. The said Columbia Transportation Company shall consist of T. H. Smith, A. D. Sanders, Milton Aldrich, E. S. Fowler, Dexter Horton, William W. Miller, Peter J. Moorey, A. S. Abernethy and Charles C. Phillips, as corporators, who, with such other persons as may hereafter be associated with them, or and also, their heirs, assigns, or successors, shall be and they are hereby declared to be a body corporate and politic in fact, and by name of the "Columbia Transportation Company of the Territory of Washington," and by that name they and their successors and assigns shall and may have continued succession, and shall be a body corporate in law, capable of suing and being sued, pleading and being impleaded, defending and being defended in all places and courts whatsoever, and shall have power to make and use a common seal, and the same at pleasure to alter, and they and their successors by the same name and style shall be capable, and have authority to purchase, hold and convey any lands, tenements, vessels, steamers, wagon, cars, goods or chattels necessary or expedient to the objects for which the said company is formed as a corporation, and are hereby clothed with all the rights, powers and privileges pertaining to corporate bodies, requisite for the purposes aforesaid.

\* \* \* \* \*

**§ 3. Locations, Rights-of-Way, etc.**—SEC. 9. For the purpose of carrying into effect this act, the said company be and are hereby authorized to survey, locate and occupy, as soon as may be after their organization, suitable landings, not exceeding one and one-half acres at each landing, and to build wharves at Vancouver City, and at other suitable points on the said rivers and their tributaries, and to survey, locate, construct, maintain and operate and use two railroads, to wit: One to commence at a point to be designated about or below the Cascades, or Falls of the Columbia river, so called, and to terminate at some point suitable for steamboat landings above said Cascades. The other to commence at some point suitable for steamboat landings about or below the Dalles of the said river, so called, and to terminate at some point suitable for that purpose above said Dalles, in the Territory aforesaid, and said railroads may be located in whole or in part on lands near to said Columbia river, or in whole or in part on the water course of said river. The said railroads shall be located with a width not exceeding forty feet, with as many tracks and rails as may be deemed necessary. And it shall be lawful for said company and those in their employ to enter upon all lands and waters for the purpose of surveying and locating such landings and railroads. And when such landings and railroads are surveyed and located, it shall then be lawful for the said company to enter upon, take possession of, use and occupy any land so designated for such purpose; and it shall be lawful for said company, and those in its employ, to enter upon lands adjacent to such landings, railroad or railroad survey, beyond the limits of

<sup>1</sup> Passed Jan. 27, 1862. (See Ninth Reg. Sess. 1861-62, p. 108.)

said forty feet, for the purpose of erecting depots, buildings, station houses and fixtures necessary for the operation and business of said road, and for the purpose of making drains and giving proper directions to water courses, removing obstacles, and to deposit earth, gravel or stone taken from carts, and to obtain earth, gravel, stone and other material necessary for embankments and structures necessary for the construction and repair of said roads, subject, however, to the payment of such compensation as the company may have agreed to pay therefor, or such as shall be ascertained in the manner hereinafter named.

**§ 4. Limitation of Privileges.**—SEC. 10. The landings may be surveyed and located before said railroads shall be surveyed and located and may be changed and relocated to better carry out the provisions of this act. Said railroad shall be commenced within two years, and completed in good running order within four years; and until said railroads are completed, passengers and freight may be transported on the public roads (the company repairing the same when necessary), and if there be no public road between the landings, then it shall be lawful for said company to lay out and open a road or roads upon the proposed line for railroads, or elsewhere, as they may deem best, using the same as a wagon road or otherwise to construct a temporary track on lands near to said river, or on the water course of said river, as before provided for said railroad; and the said company shall, by advertisement to the public, name the time of the opening of said line of travel.

**§ 5. Appraisement and Settlement of Damages for Rights-of-Way, etc.**—SEC. 11. Whenever, for the purpose before named, any land shall be taken, or used or occupied, or any material taken by said company without agreement with the owner thereof, as to compensation therefor, it shall be lawful and the duty of the district judge having jurisdiction, or any judge of the supreme court, to appoint three disinterested persons residing in the district to appraise and make due report and return of their appraisement of the value of the lands or material so used or taken, which shall be filed of record in the office of the clerk of the district court, and unless appeal be taken therefrom in twenty days by either party the judgment of the court may be entered in accordance with said report and return, at any term of said court, on motion or of course: *Provided*, That either party may appeal within twenty days after filing of said report and return, by entering written notice with the clerk of the court, who shall docket the cause, setting down the claimant as plaintiff and company as defendant, and the court shall proceed to ascertain compensation to be paid as the value of materials or lands taken, and if the amount found shall not exceed the amount appealed from, the claimant shall pay the costs with expenses of any suit, and the judgment of said district court shall be final. And when such compensation so ascertained according to the provisions of this act, shall be paid or tendered to the party entitled to the same, the title of said land shall rest in said company in fee simple, and a copy of such report or judgment filed in the office of the auditor of the county in which the lands lie shall be sufficient evidence of such title. And the said company shall have full power and authority before and pending all such proceedings, and until they shall refuse to pay the compensation so to be ascertained as aforesaid, to use, occupy and enjoy the peaceable and uninterrupted possession of said lands, for all the lawful purposes of said corporation. And they shall not before or during the pending of such proceeding, until said refusal, be disturbed in such possession, use, occupancy and enjoyment by any proceedings either at law or equity: *Provided*, That in determining the amount of compensation for material or land taken, the increased value of lands of the same owner adjacent thereto, caused by the location of such railroad, or any road or landing of said company shall be considered, and form part of such compensation: *And provided further*, That if the title of any land

taken by the said company, shall be in dispute between claimants against the United States, the compensation therefor shall be ascertained and paid to the person who shall receive the patent therefor, of those claiming under him.

\* \* \* \* \*

§ 6. **Special Powers.**—SEC. 13. It shall be lawful for said company to borrow money, sell or mortgage real or personal estate, and to do any and all acts necessary for the purposes of carrying into effect the purposes of this act, and to exercise all the rights and privileges incident thereto. This act shall receive a liberal construction, having in view the object of this corporation. And this charter shall not be forfeited because of the non-use of any of the privileges granted herein. But the non-completion of the said railroads within two years shall be cause of forfeiture, as shall also be cause of forfeiture the transfer of said franchise, or any agreement or combination to charge rates of transportation for freight and passengers with the "Oregon Steam Navigation Company," or with any owner or owners of railroads or transportation companies on the Oregon side of the Columbia river, so as to control or monopolize the transportation on the said river, or on the "Cascades or Dalles" portage.

\* \* \* \* \*

§ 7. **Right of Appeal.**—SEC. 17. All laws and parts of laws which may in any manner contravene or interfere by misuse or non-use with the location and carrying out of roads, or other matters provided for by this act, be and the same are hereby repealed.

**No. 831.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE COLUMBIA TRANSPORTATION COMPANY OF THE TERRITORY OF WASHINGTON."**<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.*

§ 2. **Special Powers.**—SEC. 2. *Be it further enacted,* That section thirteen of said act<sup>2</sup> be amended so as to read as follows, to wit: It shall be lawful for said company to borrow money, sell or mortgage real or personal estate, and to do any and all acts necessary for the purposes of carrying into effect the provisions of this act, and to exercise all the rights and privileges incident thereto. \* \* \*

\* \* \* \* \*

<sup>1</sup> Passed Jan. 8, 1863. (See Tenth Reg. Sess. 1862-63, p. 59, Local Laws.) In effect from date.

<sup>2</sup> See No. 830, § 6, *supra*.

### CHAPTER XIII.—COWLITZ RIVER STEAM NAVIGATION COMPANY.

**No. 832.—AN ACT TO INCORPORATE THE COWLITZ RIVER STEAM NAVIGATION COMPANY.**<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Royal C. Smith and Noyes H. Smith, together with all other persons who shall become associated with them by subscribing stock in said company, their assigns and successors, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the "Cowlitz River Steam Navigation Company." \* \* \*

<sup>1</sup> Passed Jan. 21, 1859. (See Sixth Reg. Sess. 1858-59, p. 41.) In effect from date.



**§ 2. General Powers.**—SEC. 2. Said company may own and possess any amount of stock and property necessary to carry on its business, which they may purchase, possess, sell and dispose of at pleasure; may sue and be sued in any court of competent jurisdiction; may have and use a common seal, which they may alter and break and renew at pleasure; may appoint one or more agents for the transaction of their business, whom they may dismiss and change at pleasure, and may from time to time make such rules, regulations and by-laws as they may deem necessary or useful, and the same amend and change at pleasure, subject, however, to the constitution and laws of the United States and the laws of this Territory.

\* \* \* \* \*

#### CHAPTER XIV.—COWLITZ STEAMBOAT COMPANY.

##### No. 833.—AN ACT TO INCORPORATE THE COWLITZ STEAMBOAT COMPANY.<sup>1</sup>

**§ 1. Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.,* That Seth Catlin, John R. Jackson, Fred A. Clark, Henry N. Piers, G. B. Roberts, together with all other persons who shall become associated with them, by subscribing to the capital stock of said company, and their successors, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the "Cowlitz River Steamboat Company," for the purpose of improving the bed of the Cowlitz river for navigation, and keeping on said river a steamboat or steamboats for the transportation of freight and passengers from some point near the head of tidewater on said river to Clarke's hotel, or some other point on Cowlitz river, to be determined by said company, or a majority of the directors of said company, and from said Clarke's hotel, or whatever other point may be fixed upon by said directors, to said tidewater on said Cowlitz river; and said company is hereby authorized and empowered to have and to receive, purchase and possess, enjoy and retain land, lots, tenements, goods, chattels, rents and effects of any kind and to any amount necessary to carry into effect the objects of said corporation, and the same to use, alien, sell and dispose of at pleasure; to sue and be sued in any court having competent jurisdiction, to have and to use a common seal, the same to alter, break and renew at pleasure, to ordain and establish such rules, regulations and by-laws as may be necessary for the well-being of said corporation, subject, however, to the constitution of the United States, the laws of the Territory, and the restrictions and limitations contained in this act.

\* \* \* \* \*

(See First Reg. Sess. 1853-4, p. 458.) In effect from date, but no date given.

#### CHAPTER XV.—THE DALLES PORTAGE COMPANY.

##### No. 834.—AN ACT ENTITLED AN ACT TO INCORPORATE THE DALLES PORTAGE COMPANY.<sup>1</sup>

**§ 1. Incorporators, Name, etc.**—SECTION 1. *Be it enacted, etc.,* That Alfred Allen, James D. Ferguson, George W. Johnson, Robert Tartar.

<sup>1</sup> Passed Dec. 19, 1859. (See Seventh Reg. Sess. 1859-60, p. 418.)

W. P. Murphy and their associates, their heirs and assigns, be and they are hereby continued and declared a body corporate and politic by the name and style of the Dalles Portage Company. The said portage or road to be used for the transportation of freights, passengers and mails, and to be constructed between the navigable waters above and below the Dalles of the Columbia river, in Washington Territory. The said Alfred Allen, James L. Ferguson and George W. Johnson to be and the same are hereby appointed a board of commissioners in behalf of the company, to select for said purpose the most convenient, economical and practicable site for said road of forty feet in width, together with one acre of land at each end of the road, \* \* \*

\* \* \*  
**§ 2. General Powers.—SEC. 8.** The Dalles Portage Company is hereby authorized and empowered to have and to receive, purchase and possess, enjoy and retain lands, lots, tenements, goods chattels and rents, and effects of any and every kind and to any amount necessary to carry into effect the objects of said company, and the same to use, alien, sell and dispose of at pleasure; to sue and be sued in any court having competent jurisdiction; to have and to use a common seal; to ordain and establish such rules, regulations and by-laws as may be necessary for the well being of said corporation, subject to the constitution of the United States and the laws of this Territory.

\* \* \*  
**§ 3. Appraisement and Settlement of Damages—Right-of-Way.—SEC. 9.** In the event of the survey of the said road embracing the land of settlers and owners parties failing to agree, the district court shall have power to appoint three citizens of Washington Territory (freeholders), who shall assess the damages and the amount of money to be paid to the owner by the company, it being obligatory on the persons so appointed to furnish to the owner of said property so taken or damaged a copy of their proceedings relating to the owner's particular property. If the owner of the property thinks his property has been assessed below its value, he shall have the privilege of providing testimony before the district court, and the judgment shall be final, except the parties shall appeal the case to the supreme court of the United States; but in the judgment of the district court the company shall be placed in possession of the land and property, having full power to proceed with the construction of the road and the necessary buildings as per charter.

\* \* \*  
**No. 835.—AN ACT REPEALING AN ACT ENTITLED "AN ACT TO INCORPORATE THE DALLES PORTAGE COMPANY," PASSED DECEMBER 19, 1859, AND THE AMENDMENT THERETO, PASSED JANUARY 17, 1859.<sup>1</sup>**

\* \* \*  
**§ 1. Revocation of All Rights Heretofore Granted.—SECTION 1.** *Be it enacted, etc.,* That said act incorporating said Dalles Portage Company, and the act amendatory thereto, extending the time in which said wagon road should be built, be and the same are hereby repealed, and all franchise, rights-of-way and privileges thereby intended to be granted, be and the same are hereby revoked and annulled, anything in said act, or amendatory act, to the contrary notwithstanding.

\* \* \*  
<sup>1</sup> Approved Jan. 22, 1866. (See Thirteenth Reg. Sess. 1865-66. p. 169.) See also No. 834, *supra*. The act referred to in title as "January 17, 1859," should be "January 17, 1861," and the subject-matter thereof not being within the scope of this book, the same does not appear herein. In effect from date.

## CHAPTER XVI.—DUNGENESS LOG-DRIVING COMPANY.

**No. 836.—AN ACT TO INCORPORATE THE DUNGENESS LOG-DRIVING COMPANY FOR THE PURPOSE OF REMOVING OBSTRUCTIONS TO DRIVING OR FLOATING LOGS DOWN THE DUNGENESS RIVER.<sup>1</sup>**

**§ 1. Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.,* That T. B. Page, James R. Angel, C. E. P. Wood and John Thornton, together with other persons as they may associate with them, be and are hereby constituted a body corporate and politic, with the right of succession, to sue and be sued, and to hold such property both personal and real as may be necessary and convenient for the purposes of this act.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 4, 1862. (See Ninth Reg. Sess. 1861-62, p. 63.) In effect from date.

## CHAPTER XVII.—EVERGREEN CEMETERY.

**No. 837.—AN ACT TO INCORPORATE THE EVERGREEN CEMETERY NEAR THE CITY OF PORT TOWNSEND, TERRITORY OF WASHINGTON.<sup>1</sup>**

**§ 1. Incorporators—Name—General Powers.**—*Be it enacted, etc.,* That Louis Kuhn, John W. White, Horace Z. Wheeler, William H. Taylor, Frederick A. Wilson, F. W. Pettygrove and J. J. H. Van Bokkelen, be and hereby are constituted a body politic and corporate under the name and title of the "Evergreen Cemetery Company," and by that name shall have power to organize, elect officers, establish rules for the transaction of business, to have and use a common seal, and be able and liable to sue and be sued in all the courts of the Territory.

**§ 2. Special Powers.**—SEC. 2. That said company shall have power to purchase, enclose and improve for the establishment of a cemetery, a portion of ground not exceeding five acres, lying west of the limits of the city of Port Townsend, and to lay out, sell and dispose of the same for burial lots.

**§ 3. Exemption.**—SEC. 3. That said cemetery shall be exempt from attachment and execution of any kind.

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<sup>1</sup> Passed Jan. 24, 1861. (See Eighth Reg. Sess. 1860-61, p. 104.) In effect from date.

## CHAPTER XVIII.—FIRST PRESBYTERIAN CHURCH OF OLYMPIA.

**No. 838.—AN ACT TO INCORPORATE THE FIRST PRESBYTERIAN CHURCH OF OLYMPIA.<sup>1</sup>**

**§ 1. Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That T. M. Reed, W. G. Dunlap, R. L. Doyle, J. K. Hall and B. P. Anderson,

<sup>1</sup> Passed Jan. 16, 1860. (See Seventh Reg. Sess. 1859-60, p. 432.) In effect from date.

as trustees, and their successors in office, are hereby declared and constituted a body corporate and politic in law, by the name and style of "The Trustees of the First Presbyterian Church of Olympia," said church being under the control, direction and care of the Old School General Assembly of the Presbyterian Church in the United States.

§ 2. **General Powers.**—SEC. 2. Said corporation shall have continual and perpetual succession, shall have and use a common seal, and shall have power to acquire, receive and hold by voluntary contribution, purchase or otherwise, and to retain and possess any property, real, personal or mixed, and the same to sell, convey, rent or otherwise dispose of at pleasure: *Provided*, That no part of the resources thereof shall ever be used for any other purposes than for the interests of said church: *Provided further*, That said corporation shall not hold land to exceed four town lots, by virtue of this act.

§ 3. **Power of Trustees.**—SEC. 3. Said trustees shall have power to adopt a constitution and by-laws for their government, and may appoint such officers and agents and establish such rules and regulations as may be necessary for the management of their affairs.

\* \* \* \* \*

§ 4. **Execution of Deeds, etc.**—SEC. 5. All deeds and other instruments of writing shall be made by the order of the board of trustees, sealed with the seal of the corporation, signed by the president and acknowledged by him in his official capacity: *Provided*, That until a seal is adopted by said board, the ordinary scroll shall be sufficient.

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## CHAPTER XIX.—FOURTH PLAIN DITCHING AND DRAINING COMPANY.

**No. 839.**—AN ACT TO INCORPORATE THE FOURTH PLAIN DITCHING AND DRAINING COMPANY FOR THE PURPOSE OF DRAINING FOURTH PLAIN SWAMP, IN CLARKE COUNTY.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That Thomas Norton, Peter Bersch, Frederick Proebstol, Charles Bird and A. R. Willey, and such other persons as they may hereafter associate with them, be and are hereby constituted a body corporate and politic, with the right of succession, to sue and be sued, and purchase, hold and convey such property, both real and personal, as may be necessary for the carrying into effect the purposes of this act.

\* \* \* \* \*

§ 2. **Special Powers.**—SEC. 3. Said company may, at any of their meetings, enact and pass such rules and regulations and such laws for the management and carrying on of the work of said company as they may deem expedient, provided the same be not inconsistent with the laws of the United States or this Territory.

§ 3. **Scope of This Act.**—SEC. 4. Nothing in this act shall be so construed as to allow said company to interfere with or encroach upon the lands of any other person or persons, along the line of said ditch, without first obtaining the permission of the owners or occupiers of said lands.

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<sup>1</sup> Passed Jan. 15, 1863. (See Tenth Reg. Sess. 1862-63, p. 66, Local Laws.) In effect from date.

## CHAPTER XX.—FRANKLIN LODGE, No. 5, MASONS.

**No. 840.—AN ACT TO INCORPORATE FRANKLIN LODGE, No. 5, OF FREE AND ACCEPTED MASONS, OF TEKALETT, W. T.<sup>1</sup>**

§ 1. **Incorporators—Name.**—*Be it enacted, etc.*, That the officers and members of Franklin Lodge, No. 5, of Free and Accepted Masons, of Tekalett, Washington Territory, be and they are hereby constituted and declared a body corporate and politic, to be known by the name of Franklin Lodge, No. 5, of Free and Accepted Masons.

§ 2. **General Powers.**—SEC. 2. Said lodge may by this corporate name sue and be sued, plead and be impleaded, defend and be defended in all the courts in this Territory; and may receive and hold all moneys and other property coming into their hands by voluntary subscription, contribution or otherwise, as well as all legacies and devises of real and personal estate; and shall be empowered to have, hold, possess, or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such bodies, to any amount not exceeding fifty thousand dollars; and the estate, hereinbefore mentioned, release, grant, convey, and dispose of in such manner as they may deem expedient.

§ 3. **Special Powers.**—SEC. 3. Said lodge may, at any of their meetings, exact and enforce such rules and regulations, and laws for the government and management as of said lodge as they may deem expedient: *Provided*, The same be not inconsistent with laws of the United States or of this Territory.

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<sup>1</sup> Passed Jan. 24, 1861. (See Eighth Reg. Sess. 1860-61, p. 125.) In effect from date.

## CHAPTER XXI.—GEOGRAPHICAL AND STATISTICAL SOCIETY OF WASHINGTON.

**No. 841.—AN ACT TO INCORPORATE THE GEOGRAPHICAL AND STATISTICAL SOCIETY OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That Isaac I. Stevens, Alexander S. Abernethy, Edward Lander, J. F. Devore, J. P. Keller, William Strong, W. W. Miller, Columbia Lancaster, Seth Catlin, E. C. Fitzhugh, R. M. Walker, Jno. Briscoe, Joel Knight, J. S. Smith, William H. Wallace, Henry Miles, Henry Rhoeder, Henry C. Wilson, Elwood Evans, James Tilton, William Kelley, A. H. Robie, R. H. Lansdale, R. L. Doyle, Wm. P. Dougherty, J. S. M. Van Cleave, Lafayette Balch, Wm. Dillon, James Doty, R. V. Peabody, A. A. Denny, David Phillips, J. B. Webber, U. D. Warbass, Jas. K. Lumm, H. M. Sterns, David Shelton, J. W. Anderson, W. N. Ayers, Wm. Cock, B. F. Shaw, Geo. Gibbs, O. B. McFadden, James A. Graham, S. S. Ford, sr., Jefferson Huff, T. J. Hanna, E. H. Fowler, H. L. Yesler, I. N. Ebey, S. D. Howe, J. K. Hurd, Wm. M. Morrow, C. Giesy, G. F. Whitworth, William Huntington, O. P. Meeker, H. D. Huntington, N. Ostrander, Henry Caples, B. B. Bishop, J. D. Holman, B. L. Henness, T. D. Hinkley, Wm. Rutledge, James Catlin, Richard Covington, J. Davis, George Drew, Frank Clark, H. R. Stevens.

<sup>1</sup> Passed Jan. 28, 1857. (See Fourth Reg. Sess. 1856-57, p. 75.)



James Birnie, J. K. Thorndyke, R. S. Robinson, D. R. Bigelow, J. M. Chapman, A. C. Anderson and Lewis Van Vleet, their associates and successors, be and they are hereby declared a body politic and corporate, under the name and style of the "Geographical and Statistical Society of Washington Territory."

\* \* \* \* \*

§ 2. **General Powers.**—SEC. 4. The object of this association being for the promotion and general improvement of affairs in the Territory, it shall be allowed, for these purposes only, to take, hold and convey real and personal estate, the former not to exceed in value ten thousand dollars.

\* \* \* \* \*

§ 3. **Donations, etc.**—SEC. 7. The executive committee shall faithfully apply all funds collected for said society according to their best judgment: *Provided*, That in case any donation, devise or bequest shall be made for particular purposes accordant with the objects of this association, and the society shall accept the same, every such donation, devise or bequest shall be expressly applied in conformity with the conditions prescribed by the donor or devisor.

§ 4. **Exemption From Taxation.**—SEC. 8. All property, of whatever kind or description, belonging or appertaining to said society, shall be and forever remain free and exempt from all taxation for any and all purposes whatever.

\* \* \* \* \*

§ 5. **Scope and Effect of This Act.**—SEC. 10. This act shall be a public act, and be in force from and after its passage.

## CHAPTER XXII.—GOOD SAMARITAN DIVISION, No. 6, S. OF T.

### No. 842.—AN ACT TO INCORPORATE GOOD SAMARITAN DIVISION, No. 6, SONS OF TEMPERANCE.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That the officers and members of Good Samaritan Division, No. 6, of Sons of Temperance, located in Steilacoom, county of Pierce, and their successors, be and they are hereby constituted and declared a body corporate, to be known by the name of Good Samaritan Division, No. 6, Sons of Temperance.

§ 2. **General Powers.**—SEC. 2. Said division may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended against, in all the courts in this Territory; and may receive and hold all moneys and other property coming into their hands by voluntary subscriptions, contributions or otherwise, as well as all legacies and devises of real or personal estate; and shall be empowered to have, hold, possess or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such bodies, to an amount not exceeding<sup>1</sup> twenty thousand dollars, and the estate hereinbefore mentioned, to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **Special Powers.**—SEC. 3. Said division may, at any of their meetings, enact and pass such rules, regulations and laws for the government and management of said division as they may deem expedient: *Provided*, The same be not inconsistent with the laws of the United States or this Territory.

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<sup>1</sup> Passed Jan. 29, 1859. (See Sixth Reg. Sess. 1858-59, p. 47.) In effect from date.

## CHAPTER XXIII.—GRAND MOUND DIVISION, No. 4, S. OF T.

No. 843.—AN ACT TO INCORPORATE GRAND MOUND DIVISION, No. 4, SONS OF TEMPERANCE.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That the officers and members of Grand Mound Division, No. 4, Sons of Temperance, located on Grand Mound Prairie, in the county of Thurston, and their successors, be and they are hereby constituted and declared a body corporate, to be known by the name of "Grand Mound Division, No. 4, Sons of Temperance."

§ 2. **General Powers.**—SEC. 2. Said division may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended in all the courts in this Territory, and may receive and hold all moneys and other property coming into their hands by voluntary subscriptions, contributions or otherwise, as well as all legacies and devises of real or personal estate, to an amount not exceeding twenty thousand dollars, and the estate hereinbefore mentioned to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **Special Powers.**—SEC. 3. Said division may at any of their meetings enact and pass such rules, regulations and laws for the government and management of said division as they may deem expedient, provided the same be not inconsistent with the laws of the United States or this Territory.

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<sup>1</sup> Passed Jan. 29, 1859. (See Sixth Reg. Sess. 1858-59, p. 45.) In effect from date.

## CHAPTER XXIV.—GRAND MOUND UNION CEMETERY ASSOCIATION.

No. 844.—AN ACT TO INCORPORATE THE GRAND MOUND UNION CEMETERY ASSOCIATION.<sup>1</sup>

§ 1. **Incorporation—Name—General Powers.**—SECTION 1. *Be it enacted, etc.,* That G. W. Miller, Joseph Axtell and E. N. Sargent and their successors are hereby constituted a body politic and corporate under the name and style of the Grand Mound Union Cemetery Association, with power to sue and be sued, plead and be impleaded, defend and be defended against, in all the courts of this Territory.

§ 2. **May Hold Certain Lands.**—SEC. 2. It shall be lawful for the said corporation to have, hold and possess in trust, for the purpose hereinafter mentioned, a certain tract or parcel of land of ten acres in the northwest corner of the northeast quarter of section two, township (15) fifteen, north of range three west of the Willamette meridian, in Thurston county, Washington Territory, the said tract of land to be used exclusively as a cemetery or burying ground for the people residing on Grand Mound Prairie and its vicinity, in said county: *Provided,* The said corporation shall not be allowed to make any charges for interment made in said cemetery.

<sup>1</sup> Approved Jan. 22, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 180.) In effect from date.

§ 3. **Special Powers.**—SEC. 3. The said corporation is further authorized to adopt any rules and regulations necessary for the government of said cemetery: *Provided*, The same do not conflict with the existing laws of congress or this Territory.

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CHAPTER XXV.—JEFFERSON LODGE, No. 12, I. O. G. T.

**No. 845.—AN ACT TO INCORPORATE JEFFERSON LODGE, No. 12, INDEPENDENT ORDER OF GOOD TEMPLARS.<sup>1</sup>**

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That the officers and members of Jefferson Lodge, No. 12, Independent Order of Good Templars, their associates and successors, be and they are hereby constituted and declared a body corporate and politic, to be known by the name and style of Jefferson Lodge, No. 12, Independent Order of Good Templars.

§ 2. **General Powers.**—SEC. 2. Said lodge may by their corporate name sue and be sued, plead and be impleaded, defend and be defended against, in all the courts of law and equity in this Territory, and may receive and hold all moneys and other property coming to their hands by voluntary subscriptions, contributions or otherwise; also all legacies and devises of real and personal estate, and to have, hold, possess or acquire lands and tenements, furniture, chattels, regalia and property of any description incident to such bodies, to any amount not exceeding one hundred thousand dollars; and the aforesaid to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **May Sell, etc., Property.**—SEC. 3. The officers of such lodge, upon an order made at any regular meeting of said lodge, may dispose of any property, either real or personal, or mortgage the same, that belongs to the lodge, and they are hereby authorized, upon such order being first made, to make, execute and deliver in due form of law, the proper and legal muniment of the transaction.

§ 4. **Execution of Deeds, etc.**—SEC. 4. No deed, mortgage, bill of sale or other evidence of incumbrance shall be valid unless executed by the P. W. C. Templar, W. C. Templar and W. Treasurer, and shall be by them acknowledged in their official capacity, acknowledged before some person authorized to take acknowledgments of deeds, to be their free and voluntary act and deed, and to be done in pursuance of an order of their lodge made at a regular meeting of the same.

§ 5. **Force of Instrument Properly Executed.**—SEC. 5. Any paper executed and acknowledged as above provided, and certified by the W. Secretary, under the seal of his lodge, to be in accordance with the order made at a regular meeting of the same, shall be received, respected and treated as binding upon the lodge by all the courts of this Territory, but none shall be so considered unless so authenticated.

§ 6. **Special Powers.**—SEC. 6. The said lodge may at any of their meetings for business, enact and pass such rules, regulations and laws for the government of said lodge and its management as they may deem necessary: *Provided*, The same be not inconsistent with the laws of the United States or of this Territory.

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<sup>1</sup> Approved Nov. 22, 1860. (See Second Bien. Sess. 1860, p. 488.) In effect from date.

## CHAPTER XXVI.—KANE LODGE, No. 8, MASONS.

**No. 846.—AN ACT TO INCORPORATE KANE LODGE, No. 8, OF FREE AND ACCEPTED MASONS, OF PORT MADISON, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Incorporators—Name.**—*Be it enacted, etc.,* That the Master and Wardens of Kane Lodge, No. 8, of "Free and Accepted Masons," their associates and successors, be and they are hereby declared a body corporate and politic, to be known by the name and style of "Kane Lodge, No. 8, of Free and Accepted Masons."

§ 2. **General Powers.**—SEC. 2. Said lodge may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory, and may receive and hold all money and other property coming to their hands by voluntary subscriptions, contributions or otherwise; also, all legacies and devises of real or personal estate, and to have, hold, possess or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such bodies, to an amount not exceeding fifty thousand dollars, and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **Special Powers.**—SEC. 3. The said lodge may, at any of their meetings for business, enact and pass such rules, regulations and laws for the government of said Lodge and its management as they may deem necessary: *Provided,* The same be not inconsistent with the laws of the United States or of this Territory.

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<sup>1</sup> Passed Jan. 16, 1861. (See Eighth Reg. Sess. 1860-61, p. 94.) In effect from date.

## CHAPTER XXVII.—KING COUNTY AGRICULTURAL SOCIETY.

**No. 847.—AN ACT TO INCORPORATE THE KING COUNTY AGRICULTURAL SOCIETY.<sup>1</sup>**

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That the president, vice president, secretary, treasurer, executive committee, and each and every member of the King County Agricultural Society, located in the county of King and Territory of Washington, and their successors in office and membership, while holding such offices and membership, be and the same are hereby declared to be a body politic and corporate, by the name and style of the King County Agricultural Society, for the purpose of promoting the interest of agriculture in said county.

§ 2. **General Powers.**—SEC. 2. That said corporation, by the name and title aforesaid, shall have power to sue and be sued, plead and be impleaded, prosecute and defend in all manner of actions at law or in equity, in all places where legal or equitable proceedings are had. The said corporation shall have power to make such by-laws, rules and regulations for its own government and the management of its affairs as shall be deemed advisable, and to alter or amend the same at pleasure: *Provided,* That such by-laws, rules and regulations shall not conflict with the constitution and laws of the United States or of the Territory of Washington.

<sup>1</sup> Approved Jan. 20, 1865. (See Twelfth Reg. Sess. 1864-65, p. 138.) In effect from date.

§ 3. **Special Powers.**—SEC. 3. The said corporation, by the name and style aforesaid, shall be capable in law of purchasing, holding and conveying real estate and personal property of all kinds for the benefit of said corporation: *Provided*, That said corporation shall not hold more than thirty thousand dollars.

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§ 4. **Scope of This Act.**—SEC. 5. This act shall be deemed a public act, and shall be liberally construed by all courts for the benefit of the corporation herein created.

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## CHAPTER XXVIII.—Klickitat Portage Company.

### No. 848.—AN ACT TO INCORPORATE THE Klickitat Portage Company.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That D. S. Baker, William C. Parsons, Richard Harris, Andrew Patterson, William Stephens, and such other persons as they may associate with them, their heirs, successors and assigns, be and they are hereby constituted and declared a body politic and corporate, by the name and style of the Klickitat Portage Company.

§ 2. **Location, Rights-of-Way, etc.**—SEC. 2. Said corporation shall have full power to survey, locate, re-locate, own, construct, maintain in repair and use, a single track railroad, with such turnouts as may be necessary or convenient between suitable points to be selected on the navigable waters of the Columbia river above and below the Dalles of the said river, in the county of Klickitat; and for the purpose of locating such railway, may select and appropriate, in the manner hereinafter provided, a strip of land not exceeding thirty feet in width between the termini of said road: *Provided*, That where, for grading, bridging and embanking, more than thirty feet is necessary for the security of the road, a sufficient width may be appropriated; also lands at or about the termini of said road sufficient for warehouses, wharf boats and steamboat landings, and also at any and all points along the railroad survey, for the purpose of building warehouses, station houses and fixtures necessary for the operation and business of said road, not to exceed two acres at any one point, together with the privilege of inclines from any point or points on said road to the waters of said river, where it may be convenient to land boats at high or low water, and for the purpose of making drains and giving proper direction to water courses, removing obstacles, and to deposit earth, gravel or stone taken from cuts, and to obtain earth, gravel, stone and other material necessary for the construction and repair of said road, subject, however, to the payment of such compensation as the company may have agreed to pay therefor, or such as shall be ascertained in the manner hereinafter named. Said corporation shall also have power to sue and be sued, contract and be contracted with, to have and receive, purchase and possess, retain and enjoy property, real, personal and mixed, rents and effects of any kind necessary or convenient to carry into effect the objects of said corporation, and the same may use, alien, sell and dispose of at pleasure; may have a common seal, and the same may break or change at pleasure; and may make by-laws for the management of its concerns not repugnant to the constitution and laws of the United States and of this Territory.

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<sup>1</sup> Approved Dec. 23, 1865. (See Thirteenth Reg. Sess. 1865-66, p. 172.) In effect from date.



**§ 3. Appraisement and Settlement of Damages.—SEC. 11.** Whenever, for the purposes before named any land shall be taken, used or occupied, or any material taken by said company without agreement with the owner thereof as to compensation therefor, it shall be lawful, and the duty of the district judge having jurisdiction, or any judge of the supreme court, to appoint three disinterested persons residing in the counties of Klickitat and Clarke to appraise and make due report and return of their appraisement of the value of the lands or materials so used or taken, which shall be filed of record in the office of the clerk of the district court, and unless appeal be taken therefrom in twenty days by either party, the judgment of the court may be entered in accordance with said report and return, at any term of said court, on motion of course: *Provided*, That either party may appeal within twenty days after filing of said report and return, by entering written notice with the clerk of the court, who shall docket the cause, setting down the claimant as plaintiff and company as defendant, and the court shall proceed to ascertain the compensation to be paid as the value of materials or lands taken, and if the amount found shall not exceed the amount appealed from, the claimant shall pay the cost with expenses of any suit, and the judgment of said district court shall be final; and when such compensation so ascertained, according to the provisions of this act, shall be paid or tendered to the party entitled to the same, the title of said land shall vest in the company, for all the lawful purposes and uses of said corporation, and a copy of such report or judgment, filed in the office of the auditor of the county in which the lands lie, shall be sufficient evidence of such title, and the said company shall have full power and authority, before and pending all such proceedings, and until they shall refuse to pay the compensation so to be ascertained as aforesaid, to use, occupy and enjoy the peaceable and uninterrupted possession of said lands, for all the lawful purposes of said corporation, and they shall not, before or during the pending of such proceedings, until said refusal, be disturbed in such possession, use, occupancy and enjoyment by any proceedings, either at law or equity: *Provided*, That in determining the amount of compensation for material or land taken, the increased value of lands of the same owner adjacent thereto, caused by the location of such railroad, or any road or land of said company, shall be considered and form part of said compensation: *And provided further*, That if the title of any land taken shall be in dispute between claimants against the United States, the compensation therefor shall be ascertained and paid to the person who shall receive the patent therefor or those claiming under him.

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**§ 4. Repealing Clause.—SEC. 18.** All laws and parts of laws which may in any manner contravene or interfere, by misuses or non-uses, with the location and building of roads, or other matters provided for by this act, be and the same are hereby repealed.

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## CHAPTER XXIX.—MEADOW CREEK QUARTZ MINING COMPANY.

### No. 849.—AN ACT TO INCORPORATE THE MEADOW CREEK QUARTZ MINING COMPANY.<sup>1</sup>

**§ 1. Incorporators—Name—General Powers.—SECTION 1.** *Be it enacted, etc.*, That E. W. Tracy, J. C. Hawthorne, John Creighton, Alonzo

<sup>1</sup> Passed Jan. 21, 1863. (See Tenth Reg. Sess. 1862-63, p. 71; Local Laws.) In effect from date.

Leland, — Jesse. — Hyde, their associates and all such persons as shall hereafter become stockholders in said company hereby incorporated, shall be a body politic by the name and style of the Meadow Creek Quartz Mining Company, with continued succession for the time herein specified, and under that name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against, in law and equity, in all courts in this Territory, may make and use a common seal and alter the same at pleasure, purchase, hold, sell and convey such real estate and personal property as the purposes of the corporation may require, appoint such officers, agents and servants as the business of the corporation may require, to define their powers and duties and fix their compensation, to make by-laws not inconsistent with the laws of this Territory, for the complete organization of the company, the management of its property, the regulation of its affairs, the transfer of its stock, and for carrying on all kinds of business within the objects and purposes of the company.

\* \* \* \* \*

§ 2. **Limitation of Privileges.**—SEC. 6. The franchise granted by the provisions of this act shall continue for the period of twenty years, unless sooner annulled by the voluntary dissolution of the company: *Provided*, That the incorporated body created by this act shall be subject to the same laws, regulations and restrictions that other persons are or hereafter may be by the laws of this Territory prescribing the manner in which quartz mining claims are located, governed and held, and none of the provisions of this act shall be so construed as to interfere with any rights that may have accrued to any person or parties prior to the location of the said company's mining claims.

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## CHAPTER XXX.—MIDDLE CASCADES PORTAGE COMPANY.

### No. 850.—AN ACT TO INCORPORATE THE MIDDLE CASCADES PORTAGE COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name.**—SECTION 1. *Be it enacted, etc.*, That William C. Parsons and Richard Harris, their heirs, successors, assigns, and such other persons as they may associate with them, be and they are hereby constituted and declared a body politic and corporate, by the name and style of the Middle Cascade Portage Company.

§ 2. **Location — Right-of-way, etc.**—SEC. 2. Said corporation shall have full power to survey, locate and re-locate, own, construct, maintain in repair and use a single track railroad, with such turnouts as may be necessary or convenient between suitable points to be selected on the navigable waters of the Columbia river above and below the middle Cascades, in the county of Clarke; and for the purpose of locating such railway, may select and appropriate in the manner hereinafter provided, a strip of land not exceeding thirty feet in width between the termini of said road: *Provided*, That where, for grading, bridging and embankment, more than thirty feet in width is necessary for the security of the road, a sufficient width may be appropriated; also land at the termini of said road sufficient for warehouses, wharf boats and steamboat landings, not exceeding a frontage of five hundred feet on the river by a depth of two hundred fifty feet; also such timber and stone as may be required in the

<sup>1</sup> Approved Jan. 14, 1865. (See Twelfth Reg. Sess. 1864-65, p. 114.)

construction of said road. Said corporation shall also have power to sue and be sued, contract and be contracted with, to have and receive, purchase and possess, retain and enjoy property, real, personal and mixed, rents and effects of any kind necessary or convenient to carry into effect the objects of said corporation, and the same may use, alien, sell and dispose of at pleasure; may have a common seal, and the same may break or change at pleasure; and may make by-laws for the management of its concerns not repugnant to the constitution and laws of the United States and the laws of this Territory.

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**§ 3. Appraisement and Settlement of Damages.**—SEC. 11. Whenever, for the purpose before named, any land shall be taken, or used or occupied, or any material taken by said company without agreement with the owner thereof as to compensation therefor, it shall be lawful and the duty of the district judge having jurisdiction, or any judge of the supreme court, to appoint three disinterested persons residing in the district to appraise and make due report and return of their appraisement of the value of the lands or material so used or taken, which shall be filed of record in the office of the clerk of the district court, and unless appeal be taken therefrom in twenty days by either party, the judgment of the court may be entered in accordance with said report and return at any term of said court, on motion of course: *Provided*, That either party may appeal within twenty days after filing of said report and return by entering written notice with the clerk of the court, who shall docket the cause, setting down the claimant as plaintiff and company as defendant, and the court shall proceed to ascertain the compensation to be paid as the value of materials or lands taken, and if the amount found shall not exceed the amount appealed from, the claimant shall pay the cost with expense of any suit, and the judgment of said district court shall be final; and when such compensation, so ascertained according to the provisions of this act, shall be paid or tendered to the party entitled to the same, the title of said land shall vest in said company in fee simple, and a copy of such report or judgment filed in the office of the auditor of the county in which the lands lie, shall be sufficient evidence of such title, and the said company shall have full power and authority before and pending all such proceedings and until they shall refuse to pay the compensation, so to be ascertained as aforesaid, to use, occupy and enjoy the peaceable and uninterrupted possession of said lands for all the lawful purposes of said corporation, and they shall not before or during the pending of such proceedings, until said refusal be disturbed in such possession, use, occupancy and enjoyment by any proceeding either at law or equity: *Provided*, That in determining the amount of compensation for material or land taken, the increased value of lands of the same owner adjacent thereto, caused by the location of such railroad, or any road or land of said company, shall be considered and form part of such compensation: *And provided further*, That if the title of any land taken by said company shall be in dispute between claimants against the United States, the compensation therefor shall be ascertained and paid to the person who shall receive the patent therefor, or those claiming under him.

**§ 4. Condition of This Grant.**—SEC. 12. This act is passed with the distinct understanding and agreement on the part of the persons named in the first section hereof, that said road may at any time be taken and appropriated by any company or persons who may be authorized by congress, or other proper authority, to locate, build or construct a road from Puget Sound to intersect any trunk or branch road leading from the Atlantic to the Pacific coast, upon paying to the said W. C. Parsons and Richard Harris, or their assigns or legal representatives, the actual cost of such road at the time it may be taken: *Provided*, That this shall not be so construed as to permit said road to be so taken and appropriated, ex-

cept for the purpose of making entire a road from Puget Sound to intersect the trunk or a branch of said trunk road from the Atlantic to the Pacific coast: *And provided further*, That congress, or the government of the United States, may at any time take said road by paying the actual cost of the same at the time it may be taken.

**No. 851.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE MIDDLE CASCADE PORTAGE COMPANY," PASSED JANUARY 14, 1865.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That section eleven of said act<sup>2</sup> be and the same is hereby amended, by striking out the words "in fee simple" where they occur in said section and inserting in place thereof "for all the lawful purposes and uses of said corporation."

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<sup>1</sup> Approved Dec. 23, 1865. (See Thirteenth Reg. Sess. 1865-66, p. 178.) In effect from date.

<sup>2</sup> See No. 550, § 3, *supra*.

## CHAPTER XXXI.—MILL PLAIN CEMETERY ASSOCIATION.

**No. 852.—AN ACT TO INCORPORATE THE MILL PLAIN CEMETERY ASSOCIATION IN CLARKE COUNTY, W. T.<sup>1</sup>**

§ 1. **Incorporators — Name — General Powers.**—SECTION 1. *Be it enacted, etc.*, That William M. Simmons, Webster Abbott and H. M. Knapp, their associates and assigns, be and they are hereby constituted a body politic and corporate under the name and style of the "Mill Plain Cemetery Association," with full power to sue and be sued, plead and be impleaded, defend and be defended in all the courts of this Territory.

§ 2. **Special Powers.**—SEC. 2. It shall be lawful for the said corporators, their associates and assigns, to have and to hold a tract or parcel of land upon the donation land claim of William M. Simmons (not to exceed one acre), to be used for the purpose of a cemetery: *Provided*, That no charges be made for interment in said cemetery.

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<sup>1</sup> Approved Jan. 18, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 213.) In effect from date.

## CHAPTER XXXII.—MONTICELLO AND COWLITZ LANDING STEAMBOAT COMPANY.

**No. 853.—AN ACT TO INCORPORATE THE MONTICELLO AND COWLITZ LANDING STEAMBOAT COMPANY.<sup>1</sup>**

§ 1. **Incorporators — Name — General Powers.**—SECTION 1. *Be it enacted, etc.*, That Nathaniel Stone, together with all other persons who shall become associated with him by subscribing to the capital stock of

<sup>1</sup> Passed Jan. 21, 1863. (See Tenth Reg. Sess. 1862-63, p. 57, Local Laws.) In effect from date.

said company, and their successors, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the "Monticello and Cowlitz Landing Steamboat Company," for the purpose of keeping on said river a steamboat or steamboats for the transportation of freight and passengers from Monticello on the Cowlitz river to Cowlitz Landing on the Cowlitz river, and from said Cowlitz Landing to Monticello, and said company is hereby authorized and empowered to have and to receive, purchase and possess, enjoy and retain land, lots, tenements, goods, chattels, rents and effects of any kind and to any amount necessary to carry into effect the objects of said corporation, and the same to use, alien, sell and dispose of at pleasure; to sue and be sued in any court having competent jurisdiction; to have and to use a common seal, the same to alter, break and renew at pleasure; to ordain and establish such rules, regulations and by-laws as may be necessary for the well being of said corporation, subject, however, to the constitution of the United States, the laws of this Territory and the restrictions and limitations contained in this act.

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#### CHAPTER XXXIII.—MONTICELLO DIVISION, No. 1, S. OF T.

##### No. 854.—AN ACT TO INCORPORATE MONTICELLO DIVISION, No. 1, OF SONS OF TEMPERANCE.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That the officers and members of Monticello Division, No. 1, of Sons of Temperance, and their successors, be and they are hereby constituted and declared a body corporate to be known by the name of Monticello Division, No. 1, Sons of Temperance.

§ 2. **Corporate Powers.**—SEC. 2. Said division may by their corporate name, sue and be sued, plead and be impleaded, defend and defended against in all the courts in this Territory, and may receive and hold all moneys and other property coming into their hands by voluntary subscriptions, contributions or otherwise, as well as all legacies and devises of real and personal estate; and shall be empowered to have, hold, possess or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such bodies, to an amount not to exceed ten thousand dollars, and the estate hereinbefore mentioned to lease, grant, convey and dispose of in such manner as they may deem expedient.

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<sup>1</sup> Passed Jan. 28, 1859. (See Sixth Reg. Sess. 1858-59, p. 42.)

#### CHAPTER XXXIV.—MOUNT MORIAH LODGE, No. 11, MASONS.

##### No. 855.—AN ACT TO INCORPORATE MOUNT MORIAH LODGE, No. 11, OF ANCIENT FREE AND ACCEPTED MASONS.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Wm. Champ, worshipful master, J. T. Knox, senior warden, E. A. Wilson, ju-

<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 136.) In effect from date.



nior warden, J. M. Elson, senior deacon, David Shelton, secretary, M. T. Simmons, treasurer, and each and every member of Mount Moriah Lodge, No. 11, of Ancient Free and Accepted Masons, located in the city of Oakland, county of Mason and Territory of Washington, and their successors in office and associates in membership while holding such offices or membership, shall be and the same are hereby declared to be a body corporate and politic by the name, style and description of Mount Moriah Lodge, No. 11, of Ancient Free and Accepted Masons.

§ 2. **General Powers.**—SEC. 2. The said corporation, by the name, style and title aforesaid, shall have power to sue and be sued, plead and be impleaded, prosecute and defend in all manner of actions at law or in equity in all places where legal or equitable proceedings are had. The said corporation shall have power to make such by-laws, rules and regulations for its own government and the management of its concerns as shall be deemed advisable, and to alter or amend the same at pleasure: *Provided*, That such by-laws, rules and regulations shall not conflict with the constitution and Laws of the United States or of the Territory of Washington, nor the constitution, laws and standing resolutions of the Grand Lodge of Washington Territory of Ancient Free and Accepted Masons.

§ 3. **Limitation of Liability.**—SEC. 3. The said corporation, by the name and style aforesaid, shall be capable in law of purchasing, holding and conveying real estate and personal property of all kinds for the benefit of said corporation: *Provided*, That said corporation shall not at any time hold real estate to the value of more than thirty thousand dollars, nor personal property or mixed property to an amount exceeding twenty thousand dollars.

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§ 4. **How This Act to be Construed.**—SEC. 7. This act shall be liberally construed by all courts for the benefit of the corporation herein created.

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## CHAPTER XXXV.—MOUNT RAINIER QUARTZ MINING COMPANY.

### No. 856.—AN ACT TO INCORPORATE THE MOUNT RAINIER QUARTZ MINING COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That F. P. Foster, Henry Winsor, J. Longmire, A. E. Mabie and J. D. Mabie, their associates and all such persons as shall hereafter become stockholders in said company hereby incorporated, shall be a body politic by the name and style of the Mount Rainier Quartz Mining Company, with continued succession for the time herein specified, and under that name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against in law and in equity, in all the courts in this Territory; may make and use a common seal and alter the same at pleasure; purchase, hold, sell and convey such real estate and personal property as the purposes of the corporation may require; appoint such officers, agents and servants as the business of the corporation may require, to define their powers and du-

<sup>1</sup> Approved Jan. 17, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 186.) In effect from date.

ties, and fix their compensation; to make by-laws not inconsistent with the laws of this Territory, for the complete organization of the company, the regulation of its affairs, the transfer of its stock, and for carrying on all kinds of business within the objects and purposes of the company.

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§ 2. **Life of Franchise.**—SEC. 5. The franchise granted by the provisions of this act shall continue for the period of twenty years, unless sooner annulled by the voluntary dissolution of the company.

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## CHAPTER XXXVI.—BISHOP OF NISQUALLY.

### No. 857.—AN ACT TO INCORPORATE THE BISHOP OF NISQUALLY.<sup>1</sup>

§ 1. **Incorporator—Name.**—SECTION 1. *Be it enacted, etc.,* That A. M. A. Blanchet, Bishop of Nisqually, and his successors in office and all persons whom he or they may think expedient to associate with him or with them, be and he is and they are hereby declared a body politic and corporate under the name and style of "The Corporation of the Catholic Bishop of Nisqually, in the Territory of Washington."

\* \* \* \* \*

§ 2. **General Powers.**—SEC. 3. *And, be it further enacted,* That said corporation shall have continual perpetual succession and shall have power to acquire, receive and possess by donation, gift or purchase, and to retain and enjoy property, real, personal and mixed, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure: *Provided, however,* That no part of the resources thereof shall ever be used for any other than the purposes above specified: *And, provided further.* That the yearly income accruing from said property to said corporation shall not exceed seventy-five thousand dollars.

§ 3. **General Powers—Continued.**—SEC. 4. Such corporation shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in all courts of justice both of law and in equity; they shall cause to be made for their use a common seal, impressed with such devices and inscriptions as they shall deem proper, by which said seal all deeds and acts of said corporation shall pass and be authenticated, and they shall have power to alter or amend said seal at their pleasure; they shall have power to form and adopt a constitution and by-laws for their government, to make and carry into effect all necessary regulations for the management of their fiscal concerns, to appoint subordinate officers and agents; to make, ordain and establish such ordinances, rules and regulations as they may deem necessary or expedient for the good government of said corporation, their officers and agents: *Provided, however,* That said ordinances, rules and regulations shall in no manner conflict with the constitution of the United States, or the laws of this Territory.

§ 4. **Execution of Deeds, etc.**—SEC. 5. That all deeds or other instruments of conveyance shall be signed by the bishop, and by him acknowledged in his official capacity, and sealed with the seal of the corporation.

<sup>1</sup> Passed Jan. 30, 1861. (See Eighth Reg. Sess. 1860-61, p. 129.)

CHAPTER XXXVII.—NISQUALLY ROAD COMPANY.

**No. 858.—AN ACT TO INCORPORATE THE NISQUALLY ROAD COMPANY.<sup>1</sup>**

§ 1. **Incorporators — Name.**—SECTION 1. *Be it enacted, etc.,* That J. Longmire, G. C. Blankenship and William Packwood, or either of them, and their associates, are hereby constituted and declared a body corporate and politic, and shall be known as the "Nisqually Road Company." \* \* \*

§ 2. **General Powers.**—SEC. 2. The said company is hereby empowered and authorized to purchase and possess and enjoy all lands, goods and chattels and effects of every kind, to any amount not exceeding in value the sum of forty thousand dollars, necessary to carry into effect the object of said corporation, and the same to use and dispose of, and to sue and be sued in any court having competent jurisdiction, and to ordain and establish such regulations as may be necessary for such corporation, subject to the constitution of the United States, and the laws of this Territory.

§ 3. **Life of Privileges.**—SEC. 6. The privileges and immunities herein granted to the said corporation, the "Nisqually Road Company," shall exist and continue in said company for the term of twenty years: *Provided*, That nothing herein contained shall be so construed as to prevent the legislature from altering or amending the above rates of tariff after five years from the passage of this act.

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<sup>1</sup> Passed Jan. 24, 1862. (See Ninth Reg. Sess. 1861-62, p. 99.) In effect from date.

CHAPTER XXXVIII.—NORTHERN PACIFIC RAILROAD COMPANY.

**No. 859.—AN ACT TO INCORPORATE THE NORTHERN PACIFIC RAILROAD COMPANY.<sup>1</sup>**

§ 1. **Incorporators — Name — General Powers.**—SECTION 1. *Be it enacted, etc.,* That Isaac I. Stevens, Wm. Cook, R. M. Walker, Wm. W. Miller, Wm. H. Wallace, Lafayette Balch, M. T. Simmons, Edward Lander, Elwood Evans, Charles H. Mason, George Gibbs, B. F. Kendell, Arthur A. Denny, David Phillips, Alexander S. Abernethy, J. P. Keller, James Tilton, E. H. Fowler, Samuel D. Howe, Edward C. Fitzhugh, Walter Crockett, Sr., Lewis H. Davis, C. C. Pagett, John R. Jackson, Seth Catlin, William Strong, William Dillon, Sumner Barker, Wm. Kelley, Ira Patterson, Harry D. Huntington, N. Ostrander, B. B. Bishop, of the Territory of Washington, and James O'Neal, W. S. Ladd, G. W. Vaughn, Thos. Carter, F. A. Sauvier and Thomas Pritchard, of Oregon; Alexander Ramsey, Henry M. Rice and James Shields, of Minnesota; John Fitzgerald, Julius White, E. W. Pelter and James Duane Doty, of Wisconsin; H. H. Gear, John B. Turner and Ira Minard, of Illinois; Alvin Sanders, Enoch Hill and Bernhart Henn, of Iowa; A. J. Pope and W. C. Talbot, of California; Charles Foster, Stephen C. Foster and Jeremiah O'Brien, of Maine; Thomas M. Mayhew, of New York, and all such persons as shall hereafter

<sup>1</sup> Passed Jan. 28, 1857. (See Fourth Reg. Sess. 1856-57, p. 65.)

become stockholders in said company hereby incorporated, shall be a body corporate and politic, by the name and style of the Northern Pacific Railroad Company, with perpetual succession, and under the name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against in law and equity, in all courts and places whatsoever, in like manner and as fully as natural persons; may make and use a common seal and alter or renew the same at pleasure, and by their said corporate name and style shall be capable in law of contracting and being contracted with; shall be and are hereby invested with all the power, privileges, immunities and franchises, and conveying real and personal estate, which may be needful to carry into effect fully the purposes and objects of this act.

\* \* \* \* \*

§ 2. **Right-of-Way—Location, etc.**—SEC. 4. \* \* \* It shall be lawful for the said company to enter upon and take possession of and use all such lands and real estate as may be necessary to the construction of and maintenance of the said railroad, its depots, water stations, side tracks, machine shops, engine houses and buildings, all appendages necessary to the construction and working of said railroad: *Provided*, That all lands or real estate entered upon, taken possession of and used by said company for the purpose and accommodation of said railroad, or upon which the aforesaid railroad shall have been located or determined by the said corporation, shall be paid for by said company in damages, if any be sustained by the owner or owners thereof by the use of the same for the purposes of said railroad, and all lands entered upon and taken for the use of said corporation which are not devoted to said corporation, at such prices as may be mutually agreed upon by said corporation and the owners of said lands or real estate; and in case of disagreement the price shall be estimated, fixed and recovered in the manner provided for taking lands for the construction of public roads, canals or other public works.

\* \* \* \* \*

§ 3. **Compensation for Right-of-Way.**—SEC. 7. That the right of, and the real estate purchased for the right-of-way by said company, whether by mutual agreement or otherwise, or shall become the property of the company by operation of law, as in this act provided, shall, upon the payment of the amount of money belonging to the owner or owners of said lands as a compensation of the same, become the property of said company in fee simple.

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## CHAPTER XXXIX.—OLYMPIA BRIDGE COMPANY.

### No. 860.—AN ACT TO INCORPORATE THE OLYMPIA BRIDGE COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That all persons who shall become stockholders in the "Olympia Bridge Company," pursuant to this act, be and they are hereby constituted a body corporate by the name of the "Olympia Bridge Company," for the purpose of constructing, maintaining and managing a draw-bridge across the western arm of Budd's Inlet, at Olympia, Thurston county, in the Territory of Washington; said body corporate to continue for the term of twenty years from the passage of this act, subject to the

<sup>1</sup> Passed Jan. 26, 1859. (See Sixth Reg. Sess. 1858-59, p. 35.) In effect from date.

regulations and restrictions hereinafter provided and under the name and style as above; that they shall be authorized and empowered to sue and be sued, to plead and be impleaded, defend and be defended, in any court of record, and to have, use and alter a common seal.

\* \* \* \* \*

§ 2. **Special Powers.**—SEC. 9. The said company shall be invested with power to convey real and personal estate, and shall have power to make all reasonable by-laws, not inconsistent with general laws, for the government of the company, its officers and agents, which may be needful to carry into effect fully the purposes and objects of this act. \* \* \*

\* \* \* \* \*

## CHAPTER XL.—OLYMPIA DIVISION, No. 2, S. OF T.

### No. 861.—AN ACT TO INCORPORATE OLYMPIA DIVISION, No. 2, OF SONS OF TEMPERANCE.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That the officers and members of Olympia Division, No. 2, of "Sons of Temperance," and their successors, be and they are hereby constituted and declared a body corporate, to be known by the name of "Olympia Division, No. 2, Sons of Temperance."

§ 2. **General Powers.**—SEC. 2. Said division may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended in all the courts in this Territory, and may receive and hold all moneys and other property coming into their hands by voluntary subscriptions, contributions or otherwise, as well as all legacies and devises of real or personal estate; and shall be empowered to have, hold, possess or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such bodies, to an amount not exceeding ten thousand dollars, and the estate hereinbefore mentioned to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **Incidental Powers.**—SEC. 3. Said division may, at any of their meetings, enact and pass such rules, regulations and laws for the government and management of said division as they may deem expedient: *Provided,* The same be not inconsistent with the laws of the United States or this Territory.

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<sup>1</sup> Passed Jan. 25, 1859. (See Sixth Reg. Sess. 1858-59, p. 43.) In effect from date.

## CHAPTER XLI.—OLYMPIA LODGE, No. 1, I. O. O. F.

### No. 862.—AN ACT TO INCORPORATE OLYMPIA LODGE, No. ONE, OF THE INDEPENDENT ORDER OF ODD FELLOWS.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION. 1. *Be it enacted, etc.,* That C. C. Hewitt, John L. Head, Samuel Davenport, Daniel

<sup>1</sup> Passed Dec. 19, 1855. (See Third Reg. Sess. 1855-56, p. 19.) In effect from date.



Kiser, J. M. Hawk, James K. Hurd, Joseph Walraven, James L. Sutton, Samuel Rosenblatt, Francis Lindler, Oliver Shead, Victor Monroe, D. C. Beaty, Russel J. Smith, G. K. Willard, Edward Furste, George Tykel, William W. Miller, W. N. Ayres, A. M. Poe, Isaac Dofflemire, and G. C. Blankenship, members of the Independent Order of Odd Fellows, their associates and successors, be and they are hereby declared to be a body corporate and politic, in deed, fact and name, by the name and style of "Olympia Lodge, No. 1, of the Independent Order of Odd Fellows;" and by that name they and their successors shall, in the name of the Noble Grand, be competent, in law, to sue and be sued, plead and be impleaded, defend and be defended against, in all the courts of law and equity in this Territory; to take, receive and hold all moneys and other property whether acquired by purchase, voluntary contributions, donations, or otherwise; also, all legacies and devises of real and personal estate; and to have and to hold, possess and acquire lands and tenements, furniture, chattels, regalia and property of any description necessary to said institution, not exceeding in value the sum of thirty thousand dollars (\$30,000); and the estate aforesaid to lease, grant, convey, and, at their will and pleasure, to dispose of, in such manner as to them may seem expedient; and to hold their meetings at such times and places, and enact such rules and by-laws as may be deemed necessary for their government: *Provided*, The same be not inconsistent with the laws of this Territory or of the United States.

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## CHAPTER XLII.—OLYMPIA GOOD TEMPLARS' HALL COMPANY.

**No. 863.—AN ACT TO INCORPORATE THE OLYMPIA GOOD 'TEMPLARS' HALL COMPANY, OF OLYMPIA, THURSTON COUNTY, WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That A. R. Elder, Calvin H. Hale, Edward Giddings, R. H. Hewitt, Geo. A. Barnes, C. H. Huntington, and others who now are or may hereafter become members of said company, and their successors, are hereby declared to be one community and body corporate, by the name, style and title of the "Olympia Good Templars' Hall Company," and by that name they shall be and are hereby made able and capable in law to have, receive and retain to them and their successors, property, real and personal; also, devises and bequests of any person or persons, bodies corporate or politic capable of making the same, and the same to dispose of or transfer at their pleasure, in such manner as they may think proper: *Provided, always*, That the said corporation shall not at any time hold or possess property, real, personal or mixed, exceeding in value the sum of twenty thousand dollars other than that which may be invested in a hall to be erected for the purposes of the company.

**§ 2. General Powers: Continued.**—SEC. 2. *And be it further enacted*. That the said corporation and their successors, by the name and title aforesaid, shall be capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all or any courts of justice, and before all and any judges, officers and persons whatsoever, in all and singular actions, matters and demands whatsoever:

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 213.)

§ 3. **Incidental Powers.**—SEC. 3. *And be it further enacted*, That the said corporation shall have power to hold stated meetings, to establish and put in execution, order or abolish such by-laws, rules and regulations as to them shall seem most conducive to the interest of the company. *Provided*, The same shall not be contrary to the laws of Washington Territory.

CHAPTER XLIII.—OLYMPIA LODGE, No. 5, MASONS.

**No. 864.**—AN ACT TO INCORPORATE OLYMPIA LODGE, NO. FIVE, OF FREE AND ACCEPTED MASONS.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That Thornton F. McElroy, C. G. Saylor, B. F. Shaw, M. T. Simmons, B. F. Yantis, J. W. Wiley, Ira Ward, C. H. Hale, N. Delin, J. P. Anderson, Smith Hays, F. A. Clarke, I. B. Powers, Edmund Sylvester, Philip Waterman and G. A. Lathrop, worshipful masters, wardens and members of the masonic fraternity, their associates and successors, be and they are hereby constituted and declared to be a body corporate and politic in deed, fact and name, by the name and style of "Olympia Lodge, No. 5, of Free and Accepted Masons," and by that name they and their successors shall be able and capable in law to sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory; to take, receive and hold all moneys and other property by voluntary subscriptions, contributions, donations or otherwise; also all legacies and devises of real and personal estate, and to have, hold and possess and acquire lands and tenements, furniture, chattels, regalia and property of any description incident to such bodies, to an amount not exceeding twenty thousand dollars, and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may judge expedient, at their will and pleasure, and at any of their meetings for business, to enact and pass such rules, regulations and by-laws for the government of said lodge and management of the affairs thereof as they may deem proper and necessary: *Provided*, The same be not repugnant to the laws of this Territory and of the United States.

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<sup>1</sup> (See First Reg. Sess. 1854, p. 461.) In effect from date, but no date given.

**No. 865.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE OLYMPIA LODGE, NO. 5, OF FREE AND ACCEPTED MASONS."

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That the act of which this is amendatory<sup>2</sup> be so amended as to read: "Olympia Lodge, No. 1, of Free and Accepted Masons."

\* \* \* \* \*

<sup>1</sup> Passed Dec. 21, 1859. (See Seventh Reg. Sess. 1859-60, p. 424.) In effect from date.

<sup>2</sup> See No. 864, *supra*.

## CHAPTER XLIV.—OLYMPIA MUSICAL ASSOCIATION.

No. 866.—AN ACT TO INCORPORATE THE OLYMPIA MUSICAL ASSOCIATION.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Albert Eggers, W. H. Wood, James R. Wood, Oliver Shead and S. A. Wood be and they are hereby organized and constituted into a body corporate, by the name and style of the "Olympia Musical Association."

§ 2. **May be Sued, etc.**—SEC. 2. By that name they and their successors shall be capable in law to sue and be sued, plead and be impleaded, defend and be defended against, in all courts of law and equity in this Territory.

§ 3. **May Hold Property, etc.**—SEC. 3. They, in their corporate capacity, are hereby authorized to receive and to hold all moneys and other property, by voluntary contribution, subscription, donation or otherwise, by legacies and devises of real and personal estate, to hold, possess and acquire lands and tenements, furniture, chattels and property of any description necessary for the use of said association, to the amount of ten thousand dollars.

§ 4. **May Lease, etc.**—SEC. 4. They, in their corporate name, shall have power to lease, grant, convey and dispose of its property and effects in such manner as they may deem proper and expedient: \* \* \*

<sup>1</sup> Passed Feb. 2, 1858. (See Fifth Reg. Sess. 1857-58, p. 48.)

## CHAPTER XLV.—OLYMPIA WHARF COMPANY.

No. 867.—AN ACT TO INCORPORATE THE OLYMPIA WHARF COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.,* That Joseph Cushman, Ed. Marsh, T. F. McElroy, Geo. A. Barnes, William Rutledge, A. B. Gove, B. F. Kendall and John H. Scranton, and their associates, successors and assigns, are hereby made and consolidated a body corporate and politic, by the name and style of the "Olympia Wharf Company," and shall have power to sue and be sued, to contract and be contracted with, complain and defend in any court of law or equity; to make and use a common seal, and alter the same at pleasure; to make by-laws, rules and regulations for the management of its property, the regulation of its affairs, the appointment and number of its officers and agents, the negotiation and execution of its contracts, and the transfer of its stock, not inconsistent with the laws of this Territory or of the United States; and to take and hold sufficient real estate for the enjoyment of all the privileges herein granted, and to grant and convey the same at pleasure: *Provided*, Said wharf shall be commenced within two years and completed within six years from the passage of this act.

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§ 2. **Effect and Limitation of This Act.**—SEC. 11. This act shall go into effect immediately, and shall continue in force for twenty years, and shall be taken and deemed to be a public act.

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, p. 450.)

CHAPTER XLVI.—OREGON STEAM NAVIGATION COMPANY.

**No. 868.**—AN ACT TO INCORPORATE THE OREGON STEAM NAVIGATION COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—*Be it enacted, etc.*, That J. C. Ainsworth, Daniel F. Bradford, R. R. Thompson and J. S. Ruckle, and their associates in the association known as the "Oregon Steam Navigation Company" and the successors, are hereby declared a body corporate and politic by the name and style of the "Oregon Steam Navigation Company" for the purposes of navigation and transportation in the State of Oregon and Washington Territory.

§ 2. **General Powers.**—SEC. 2. Said corporation shall have power to purchase and receive in all lawful ways, own and possess boats, vessels, lands, goods, chattels and effects of every kind, the same to use and dispose of in all lawful ways at pleasure; to contract and be contracted with, to implead and be impleaded, sue and be sued, in all courts; to have a common seal, and the same to use and change at pleasure, and to ordain and establish such by-laws and regulations as it may deem expedient for its own government and the efficient management of its own affairs, consistent with the constitution and laws of the United States and the laws of this Territory.

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§ 3. **Incidental Powers.**—SEC. 4. Said corporation shall receive, possess and enjoy all the property, interests and rights of said association,  
\* \* \*

§ 4. **Effect—Right of Appeal.**—SEC. 5. This act to take effect and be in force from and after its passage: *Provided*, That nothing herein contained shall be so construed as to prevent the amendment or repeal of this act by any future legislative assembly; \* \* \*

<sup>1</sup> Passed Dec. 19, 1860. (See Eighth Reg. Sess. 1860-61, p. 72.)

CHAPTER XLVII.—PEND D'OREILLE MINING COMPANY.

**No. 869.**—AN ACT TO INCORPORATE THE PEN D'OREILLE MINING COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—*Be it enacted, etc.*, That W. H. Watson, H. Way, W. Terry, R. Ricord, G. C. Blankenship, Wm. Cardwell and B. F. Yantis, and their associates, successors and assigns, are hereby made and constituted a body corporate and politic, by the name and style of the "Pend d'Oreille Mining Company," and shall have power to sue and be sued, to contract and be contracted with, complain and defend in any court of equity, to make and use a common seal and alter the same at pleasure; to make by-laws, rules and regulations for the management of its property, the regulation of its affairs, the appointment and number of its officers and agents, the negotiation and execution of its contracts and the transfer of its stock, not inconsistent with the laws of this Territory

<sup>1</sup> Passed Jan. 7, 1861. (See Eighth Reg. Sess. 1860-61, p. 79.)

or of the United States; and to take and hold sufficient real estate for the enjoyment of all the privileges herein granted, and to grant and convey the same at pleasure: *Provided*, Said company shall commence their mining operations within one year from the passage of this act.

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§ 2. **Effect of this Act.**—SEC. 11. This act shall go into effect immediately, and shall continue in force for ten years, and shall be taken and deemed a public act.

### CHAPTER XLVIII.—PORT DISCOVERY LOG DRIVING COMPANY.

#### No. 870.—AN ACT TO INCORPORATE THE PORT DISCOVERY LOG DRIVING COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That T. B. Page, John F. Tukey, their associates or assigns, be and are hereby constituted a body corporate and politic, with power to sue and be sued, under the name of the "Port Discovery Log Driving Company," for the purpose of removing jams and other obstructions to driving or floating logs or timber down Discovery creek into Port Discovery Bay.

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§ 2. **Powers.**—SEC. 6. The privileges granted by this act shall be continued to them in the full enjoyment thereof for the term of ten years from the passage of this act.

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<sup>1</sup> Passed Jan. 16, 1862. (See Ninth Reg. Sess. 1861-62, p. 87.) In effect from date.

### CHAPTER XLIX.—PORT TOWNSEND LODGE, No. 6. MASONS.

#### No. 871.—AN ACT TO INCORPORATE PORT TOWNSEND LODGE, No. 6, OF FREE AND ACCEPTED MASONS.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That G. O. Haller, F. A. Wilson, John Gibbs, E. S. Fowler, E. Webber, J. M. Van Valzah, H. L. Tibbals, John Thornton, Simon Ebbrecht, J. F. Blumburg, J. J. Bragdon, F. A. Chenoweth and E. Evans, worshipful masters, wardens and members of the masonic fraternity, their associates and successors, be and they are hereby constituted and declared to be a body corporate and politic, in deed, fact and name, by the name and style of "Port Townsend Lodge, No. 6, of Free and Accepted Masons;" and by that name they and their successors shall be able and capable in law to sue and be sued, plead and be impleaded, defend and be defended against, in all the courts of law and equity in this Territory; to take, receive and hold all moneys, and other property, by voluntary contributions, donations or otherwise; also, all legacies and devises of personal estate; and to have, hold, possess and acquire lands and tenements, furniture, chattels, regalia and property of any description incident to

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<sup>1</sup> Passed Dec. 15, 1859. (See Seventh Reg. Sess. 1859-60, p. 414.) In effect from date.



such bodies, to an amount not exceeding forty thousand dollars; and the estate aforesaid to lease, grant, convey and dispose of, in such manner as they may judge expedient, at their will and pleasure; and at any of their meetings for business to enact and pass such rules, regulations and by-laws for the government of said lodge and management of the affairs thereof as they may deem proper and necessary: *Provided*, The same be not repugnant to the laws of this Territory and of the United States.

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## CHAPTER L.—PRESBYTERIAN CHURCH, CHAMBERS' PRAIRIE.

### **No. 872.—AN ACT TO INCORPORATE THE PRESBYTERIAN CHURCH AND SCHOOL OF CHAMBERS' PRAIRIE.<sup>1</sup>**

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That A. J. Chambers, Joseph White, A. W. Stewart, Marcus McMillan, David Chambers and Abijah O'Neal, as trustees, and their successors in office, are hereby declared and constituted a body corporate and politic in law, by the name and style of "The Trustees of the Presbyterian Church of Chambers' Prairie," \* \* \*

§ 2. **General Powers.**—SEC. 2. *And be it further enacted*, That said corporation shall have continual and perpetual succession, and shall have power to acquire, receive and hold by donation, voluntary contribution, purchase, legacy, devise or otherwise, and to retain and possess any property, either real, personal or mixed, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure: \* \* \*

§ 3. **Incidental Powers.**—SEC. 3. *And be it further enacted*, That said trustees shall have power to form and adopt a constitution and by-laws for their government, and may appoint such officers and agents, and establish such rules and regulations as may be necessary for the management of the real estate and other property belonging to said church, or that may become necessary or be expedient for the establishment and government of the school herein provided for: *Provided*, That such rules and regulations shall in nowise conflict with the laws of this Territory or the constitution of the United States.

\* \* \* \* \*

§ 4. **Execution of Deeds.**—SEC. 5. *And be it further enacted*, That all deeds and other instruments of conveyance shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity: *Provided, however*, That until such board shall adopt a seal, the ordinary scroll with a pen shall be deemed sufficient.

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<sup>1</sup> Passed Feb. 1, 1858. (See Fifth Reg. Sess. 1857-58, p. 46.)

## CHAPTER LI.—PUGET SOUND AND COLUMBIA RIVER RAILROAD COMPANY.

### No. 873.—AN ACT TO INCORPORATE THE "PUGET SOUND AND COLUMBIA RIVER RAILROAD COMPANY."<sup>1</sup>

**§ 1. Incorporators — Name — General Powers.**—SECTION 1. *Be it enacted, etc.,* That Peter J. Moorey, J. B. Webber, P. Keach, Lafayette Balch, Thomas Chambers, S. McCaw, J. W. Nye, Lewis Lord, Richard Covington, John Aird, Lewis Sohns, Geo. W. Hart, C. Lancaster, T. J. DeMarco, Geo. Woods, Enoch S. Fowler, Paul K. Hubbs, H. Z. Wheeler, J. P. Keller, A. A. Denny, H. L. Yessler, Chas. Plummer, W. W. Miller, A. J. Chambers, Jas. Biles, H. D. Huntington, Chas. Holman, Cyrus Walker, Frank Clark, Wm. M. Morrow, and all such persons as shall hereafter become stockholders in said company hereby incorporated, shall be a body politic, by the name and style of the "Puget Sound and Columbia River Railroad Company," with perpetual succession, and under the name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against in law and equity, in all courts and places whatsoever, in like manner and as fully as natural persons; may make and use a common seal, and alter or renew the same at pleasure; and by their said corporate name and style shall be capable in law of contracting and being contracted with, shall be and are hereby invested with all the powers, privileges, immunities and franchises, and conveying real and personal estate which may be needful to carry into effect fully the purposes and objects of this act.

**§ 2. Location, etc.**—SEC. 2. The said corporation is hereby authorized and empowered to survey, locate, construct, complete, alter, maintain and operate a railroad with one or more tracks, or lines of rails, commencing at Steilacoom, in Pierce county, on Puget Sound, and running thence "to" Vancouver city in Clarke county.

\* \* \* \* \*

**§ 3. Determination of and Settlement for Damages.**—SEC. 4. The said company are hereby authorized, by their agents, surveyor or engineers, to cause such examinations and surveys to be made of the ground and country between all the points mentioned in the second section of this act as shall be necessary to determine the most advantageous route for the proper line or course whereon to construct the said railroad, and it shall be lawful for the said company to enter upon and take possession of and use all such lands and real estate as may be necessary to the construction of and maintenance of the said railroad, its depots, water stations, side tracks, machine shops, engine houses and buildings, all appendages necessary to the construction and working of said railroad: *Provided*, That all lands or real estate entered upon, taken possession of and used by said company for the purpose and accommodation of said railroad, or upon which the aforesaid railroad shall have been located or determined by the said corporation, shall be paid for by said company in damages, if any be sustained by the owner or owners thereof by the use of the same for the purposes of the said railroad, and all lands entered upon and taken for the use of the said corporation, which are not devoted to said corporation, at such prices as may be mutually agreed upon by said corporation, and the owners of said lands or real estate; and in case of disagreement the price shall be estimated, fixed and recovered in the manner provided for

<sup>1</sup> Passed Jan. 28, 1862. (See Ninth Reg. Sess. 1861-62, p. 124.)

taking lands for the construction of public roads, canals, or other public works.

\* \* \* \* \*

§ 4. **Rights-of-Way, etc.**—SEC. 7. That the right of and the real estate purchased for the right-of-way by said company, whether by mutual agreement or otherwise, or shall become the property of the company by operation of law, as in this act provided, shall, upon the payment of the amount of money belonging to the owner or owners of said lands as a compensation of the same, become the property of said company in fee simple.

\* \* \* \* \*

§ 5. **Effect of this Act.**—SEC. 13. This act shall be deemed a public act, and shall be favorably construed for all purposes therein expressed and declared in all courts and places whatsoever, and shall be in force from and after its passage: *Provided*, Said railroad shall be commenced within three years and completed within ten years from the passage of this act.

**No. 874.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE PUGET SOUND AND COLUMBIA RIVER RAILROAD COMPANY," PASSED JANUARY 28, 1862.<sup>1</sup>**

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That section one of the act to which this is amendatory<sup>2</sup> be so amended as to read: "That Peter J. Morey, J. B. Webber, S. McCaw, P. Keach, John Salter, Geo. Gallagher, Wm. R. Downey, Daniel Collins, Chas. Prosch, Henry Murray, Chas. Wren, E. R. Rogers, H. L. Yesler, Chas. Plummer, C. C. Terry, M. H. Frost, G. A. Meigs, Capt. Renton, M. S. Drew, Cyrus Walker, E. S. Fowler, Fred A. Wilson, C. M. Bradshaw, W. W. Miller, James Biles, O. B. McFadden, C. Lancaster, Lewis Sohns, Charles Holman, Seth Catlin, H. D. Huntington, Hiram Cochran, S. W. Brown, E. C. Hardy, L. Fredenrich, John F. Smith, C. Crosby and C. Jacobs, and all such persons as shall hereafter become stockholders in said company hereby incorporated, shall be a body politic by the name and style of the Puget Sound and Columbia River Railroad Company, with perpetual succession, and under the name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against in law and equity in all courts and places whatsoever, in like manner and as fully as natural persons; may make and use a common seal, and alter and renew the same at pleasure, and by their corporate name and style shall be capable in law of contracting and being contracted with; shall be and are hereby invested with all powers, privileges, immunities and franchises, and conveying real and personal estate which may be needful to carry into effect fully the purposes and objects of this act."

§ 2. **Location, etc.**—SEC. 2. That section two of the act to which this is amendatory<sup>3</sup> be so amended as to read: "The said corporation is hereby authorized and empowered to survey, locate, construct, complete, alter, maintain and operate a railroad, with one or more tracks or lines of rails, commencing at Steilacoom, in Pierce county, on Puget Sound, and running thence via Vancouver, in Clarke county, to a point opposite Celilo, or the mouth of Deschutes river, or some other point in the vicinity of the Upper Columbia river, by said corporation to be selected and determined."

<sup>1</sup> Passed Jan. 8, 1864. (See Eleventh Reg. Sess. 1863-64, p. 103.) All inconsistent acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 878, § 1, *supra*.

<sup>3</sup> See *ibid.*, § 2.

§ 3. **Limitation of Privileges.**—SEC. 3. That the proviso to section thirteen of the act to which this is amendatory <sup>4</sup> be so amended as to read: "*Provided*, Said railroad shall be commenced within five years and be completed within fifteen years from the passage of this act.

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<sup>4</sup> See *ibid.*, § 5.

## CHAPTER LII.—PUGET SOUND STEAM NAVIGATION COMPANY.

### No. 875.—AN ACT TO INCORPORATE THE PUGET SOUND STEAM NAVIGATION COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name — General Powers.**—SECTION 1. *Be it enacted, etc.*, That William H. Wallace, H. A. Goldsborough, William Cock, H. L. Yesler, Charles C. Terry, James M. Hunt and John H. Scranton, together with all other persons who shall become associated with them by subscribing to the capital stock of said company, and their successors, be and are hereby constituted and declared a body corporate and politic, by the name and style of "The Puget Sound Steam Navigation Company," for the purpose of navigating by steam the waters of Puget Sound, Hood's Canal, Admiralty Inlet, the Straits of San Juan de Fuca and the northern waters of the Territory of Washington, and keeping on said waters a steamer or steamers for the transportation of freight and passengers. And said company is hereby authorized and empowered to have and to receive, purchase and possess, enjoy and retain lands, tenements, goods, chattels, rents and effects of any kind and to any amount necessary to carry into effect the objects of said corporation, and the same to use, alien, sell and dispose of at pleasure; to sue and be sued in any court having competent jurisdiction; to have and to use a common seal; to ordain and establish such rules, regulations and by-laws as may be necessary for the well-being of said corporation, subject, however, to the constitution of the United States, the laws of this Territory and the restrictions and limitations contained in this act.

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§ 2. **Taxation.**—SEC. 5. Said company shall be subject to the provisions of any law that now is or may hereafter be enacted regulating the mode of taxation.

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<sup>1</sup> Passed Jan. 5, 1855. (See Second Reg. Sess. 1854-55, p. 58.) In effect from date.

### No. 876.—AN ACT TO INCORPORATE THE PUGET SOUND STEAM NAVIGATION COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name.**—SECTION 1. *Be it enacted, etc.*, That W. P. Sayward, Thomas Deane, E. S. Fowler, H. L. Tibbals, O. F. Gerrish, P. M. O'Brien, C. B. Sweeny, W. W. Miller, Isaac Lightner, S. W. Percival, S. D. Howe, G. K. Williard, Sam. Coulter, T. F. McElroy, J. L. McDonald, and their associates in the association known as the Puget Sound Steam Navigation Company, and their successors, are hereby declared a body corporate and politic, by the name and style of the Puget Sound

<sup>1</sup> Passed the House Jan. 11, 1866. Passed the Council Jan. 13, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 193.) Sent to the Governor Jan. 17, 1866; returned Jan. 25, 1866; not stated whether approved or disapproved.

Steam Navigation Company, for the purposes of navigation and transportation in Washington Territory, Vancouver's Island and British Columbia.

§ 2. **General Powers.**—SEC. 2. Said corporation shall have power to build, purchase and receive in all lawful ways, own and possess boats, vessels, lands, tenements, goods, chattels and effects of every kind, the same to use and dispose of in all lawful ways; to contract and be contracted with; to implead and be impleaded, sue and be sued in all courts; to have a common seal, and the same to use and change at discretion; to ordain and establish such by-laws and regulations as it may deem expedient for its own government and the efficient management of its own affairs, consistent with the constitution of the United States, the laws of congress and of Washington Territory.

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§ 3. **Restriction.**—SEC. 6. This act shall not be so construed as to allow the Puget Sound Steam Navigation Company to carry on the business of said association on the Columbia river or any of its tributaries.

### CHAPTER LIII.—PUGET SOUND UNIVERSITY.

#### No. 877.—AN ACT TO INCORPORATE THE PUGET SOUND UNIVERSITY.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.,* That D. R. Bigelow, B. C. Lippincott, G. A. Barnes, James Biles, A. Hall, W. Rutledge, W. N. Ayers, S. McCaw, J. B. Webber, Charles Prosch, J. R. Meeker, W. W. Miller, G. K. Willard, B. L. Henness, A. R. Burbank, A. A. Denny, A. S. Abernethy, D. Phillips, N. Doane, W. Wright, C. H. Hale, F. W. Pettygrove, J. L. Scammon, J. F. Devore, R. H. Lansdale, L. Shaffer, T. F. Berry, A. H. Simmons, C. M. Carter, Jno. D. Biles, their associates and successors in office, shall become a body corporate and politic, with perpetual succession, under the name of the Puget Sound University, by which they may sue and be sued, plead and be impleaded, in all the courts of law and equity; may have a corporate seal, and the same alter or breach at pleasure; may hold all kinds of estate, real, personal or mixed, which they may acquire by purchase, donation, devise or otherwise, necessary to accomplish the objects of the corporation, and the same to dispose of and convey at pleasure.

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<sup>1</sup> Passed Jan. 25, 1860. (See Seventh Reg. Sess. 1859-60, p. 446.)

### CHAPTER LIV.—PUGET SOUND WESLEYAN INSTITUTE.

#### No. 878.—TO INCORPORATE THE PUGET SOUND WESLEYAN INSTITUTE.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That there shall be established in the town of Olympia, in the county of Thurston, an institution of learning, to be called the Puget Sound Wesleyan Institute, and that D. R. Bigelow, G. A. Barnes, C. B. Baker, F. A. Chenowith, A. A. Denny, G. M. Berry, R. H. Lansdale, A. S. Abernethy, James

<sup>1</sup> Passed Dec. 17, 1856. (See Fourth Reg. Sess. 1856-57, p. 73.)



Biles, W. S. Parsons, William Wright, J. S. Smith, W. D. Van Buren, T. F. Berry, B. F. Yantis, W. N. Ayers, Edward Lander, William Miller, J. F. Devore, John Briscoe, G. K. Willard, Isaac Dillon, L. A. Davis, William Rutledge, jr., Morris Littlejohn, R. M. Walker, C. H. Hale and Elwood Evans, as trustees, and their associates and successors, are hereby declared and constituted a body corporate and politic in law, by the name and style of the "Puget Sound Wesleyan Institute."

§ 2. **General Powers.**—SEC. 2. *And be it further enacted*, That said corporation shall have continual perpetual succession, and shall have power to acquire, receive and possess by donation, gift or purchase, and to retain and enjoy property, real, personal and mixed, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure: *Provided*, That no part of the resources thereof shall ever be used for any other than educational purposes, as is herein contemplated: *And provided further*, That the yearly income accruing from said property to said institution shall not exceed five thousand dollars. Said corporation shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in all courts of justice, both at law and in equity. They shall cause to be made for their use a common seal, impressed with such devices and inscriptions as they shall deem proper, by which said seal all deeds and acts of said corporation shall pass and be authenticated, and they shall have power to alter or amend said seal at their pleasure. \* \* \*

\* \* \* \* \*

§ 3. **Execution of Deeds, etc.**—SEC. 4. *And be it further enacted*, That all deeds and other instruments of conveyance shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president and by him acknowledged in his official capacity.

§ 4. **Right of Appeal.**—SEC. 5. *And be it further enacted*, That the legislature shall have power at any subsequent session, when the necessities of the institution or considerations of public good require it, to alter or amend this act at pleasure.

## CHAPTER LV.—PUGET SOUND WOOLEN MANUFACTURING COMPANY.

### No. 879.—AN ACT TO INCORPORATE THE PUGET SOUND WOOLEN MANUFACTURING COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That James Biles, Ira Ward, jr., B. L. Henness, C. C. Phillips, H. J. G. Maxon, George A. Barnes, Andrew J. Chambers, James Longmire and W. W. Miller, with all others who are or shall hereafter be associated with them, their successors and assigns, are hereby constituted and created a body corporate and politic, by the name of the "Puget Sound Woolen Manufacturing Company," for manufacturing purposes, and by that name shall have perpetual succession, and are made able and capable in law to have, possess, purchase, receive, hold, enjoy and retain unto them, their successors and assigns, estates of every kind, real, personal or mixed, and the same to manage, let, lease, assign, grant, bargain, sell, alien, convey and dispose of at pleasure; to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended against in all courts of law and equity, and before all tribunals whatever:

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, p. 453.)

to make, have and use a common seal, and the same to break, alter and renew at pleasure; and shall also have power to make, establish and put in execution such by-laws and regulations, not contrary to law, as they may deem necessary and convenient for the government of said corporation and the management of their property and concerns, and the duties, services and employments of their officers and agents, and the same to change, alter or amend; and generally to do and execute all acts, matters and things which may be necessary to carry into effect the powers and privileges herein granted.

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§ 2. **Effect of This Act.**—SEC. 13. This act shall continue in force for twenty years, and shall be taken and deemed to be a public act, and shall take effect immediately on the passage thereof.

## CHAPTER LVI.—PUYALLUP NAVIGATION COMPANY.

**No. 880.**—AN ACT TO INCORPORATE THE PUYALLUP NAVIGATION COMPANY OF PIERCE COUNTY, AND TO GRANT CERTAIN PRIVILEGES FOR IMPROVING THE NAVIGATION OF THE PUYALLUP RIVER.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Cyril Ward, William Billings, A. J. Perkins, Israel Wright, John Carson, John Walker, Isaac Woolery, Abraham Woolery, J. P. Stewart, — Miller, R. S. Moore, Wm. M. Kincaid, Jonathan McCarty, L. F. Thompson, Archibald McMillan, — Sherman, J. B. Leach, W. H. Whitesell, Aronomous Nix, Isaac Lemmon, Van Ogle, Daniel E. Lane, Edward Lane, Wm. Lane, H. W. Berry, James H. Downey, R. M. Downey, F. C. Seaman and Willis Boatman, their associates, successors or assigns, be and they are hereby declared and constituted a body corporate and politic, to be known by the name and style of the Puyallup Navigation Company of Pierce county.

§ 2. **General Powers.**—SEC. 2. Said corporation, by their corporate name, may sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory, and may receive all moneys and other property either real or personal coming to their hands by purchase or otherwise, and may have and hold, possess and acquire lands and tenements and property of any description to an amount not exceeding one hundred thousand dollars; and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem expedient.

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§ 3. **Date in Effect and Limitation of Privileges.**—SEC. 11. This act to take effect and be in force from and after its passage, and for and during the period of twenty years.

<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 61, Local Laws.)

## CHAPTER LVII.—ST. JOHN'S CHURCH, OLYMPIA.

No. 881.—AN ACT TO INCORPORATE ST. JOHN'S CHURCH OF OLYMPIA.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Wm. Pickering, Richard Lane and S. W. Percival, as trustees, and their successors in office, are hereby declared a body corporate and politic in law, by the name and style of the Trustees of St. John's Church of Olympia, said church being under the control, direction and care of the Protestant Episcopal Church of the United States.

§ 2. **General Powers.**—SEC. 2. Said corporation shall have continual and perpetual succession; shall have and use a common seal; shall have power to acquire, receive and hold by voluntary contribution, purchase or otherwise, and to retain and possess any property, real, personal or mixed, and the same to sell, convey, rent or otherwise dispose of at pleasure: *Provided*, That no part of the resources thereof shall ever be used for any other purpose than for the interest of said church.

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§ 3. **Execution of Deed, etc.**—SEC. 5. All deeds and other instruments of writing shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president and acknowledged by him in his official capacity: *Provided*, That until a seal shall be adopted by said board, an ordinary scroll shall be sufficient.

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<sup>1</sup> Passed Jan. 7, 1864. (See Eleventh Reg. Sess. 1863-64, p. 94.) In effect from date.

## CHAPTER LVIII.—ST. JOHN'S LODGE, No. 9. MASONS.

No. 882.—AN ACT TO INCORPORATE ST. JOHN'S LODGE, No. 9, OF FREE AND ACCEPTED MASONS, OF SEATTLE, W. T.<sup>1</sup>

§ 1. **Incorporators—Name.**—*Be it enacted, etc.,* That the officers and members of St. John's Lodge, No. 9, of Free and Accepted Masons, of Seattle, Washington Territory, be and they are hereby constituted and declared a body corporate and politic, to be known by the name of "St. John's Lodge, No. 9, of Free and Accepted Masons."

§ 2. **General Powers.**—SEC. 2. Said Lodge may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended against in all the courts of this Territory, and may receive and hold all money and other property coming into their hands by voluntary subscriptions; contributions or otherwise, as well as all legacies and devises of real or personal estate; and shall be empowered to have, hold, possess or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such body to an amount not exceeding fifty thousand dollars; and the estate hereinbefore mentioned to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **Special Powers.**—SEC. 3. Said lodge may, at any of their [regular meetings] enact and pass such rules, regulations and laws for the

<sup>1</sup> Passed Jan. 24, 1861. (See Eighth Reg. Sess. 1860-61, p. 121.) In effect from date.

government and management of said lodge as they may deem expedient: *Provided*, The same be not inconsistent with the laws of the United States and of this Territory.

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## CHAPTER LIX.—ST. PAUL'S CHURCH.

### No. 883.—AN ACT TO INCORPORATE ST. PAUL'S CHURCH AT PORT TOWNSEND.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That J. J. H. Van Bokkelen, O. F. Gerrish and Paul K. Hubbs, and their successors in office, are hereby declared a body corporate and politic in law, by the name and style of the Trustees of St. Paul's Church of Port Townsend; said church being under the control, direction and care of the Protestant Episcopal Church of the United States.

§ 2. **General Powers.**—SEC. 2. Said corporation shall have continual and perpetual succession, shall have and use a common seal, shall have power to acquire, receive and hold by voluntary contribution, purchase or otherwise, and to retain and possess any property, real, personal or mixed, and the same to sell, convey, rent or otherwise dispose of at pleasure: *Provided*, That no part of the resources thereof shall ever be used for any other purpose than for the interest of said church.

\* \* \* \* \*

§ 3. **Execution of Deeds, etc.**—SEC. 5. All deeds and other instruments of writing shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president and acknowledged by him in his official capacity: *Provided*, That until a seal shall be adopted by said board, an ordinary scroll shall be sufficient.

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<sup>1</sup> Approved Jan. 12, 1865. (See Twelfth Reg. Sess. 1864-65, p. 142.) In effect from date.

## CHAPTER LX.—SEATTLE AND SQUAK RAILROAD COMPANY.

### No. 884.—AN ACT TO INCORPORATE THE SEATTLE AND SQUAK RAILROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.*, That H. L. Yesler, Charles C. Terry, H. R. Baxter, Frank Matthias, L. B. Hinds, S. F. Combs, Dexter Horton, Wm. Greenfield, Charles Plummer, T. D. Hinkley, Jos. Williamson, — Castro, E. M. Smithers, S. D. Libby, Perry Dunfield, Edwin Richardson, A. B. Rabbe-son, J. S. Hill, Thos. Mercer, D. S. Maynard, T. S. Russell, L. T. B. Andrews, John Suffron, Wm. A. Jepson, J. R. Watson, H. P. O'Bryant, H. Butler, F. McNatt, H. McCabe, L. V. Wykoff, of Seattle, W. T., and all such persons as shall hereafter become stockholders in said company hereby incorporated, shall be a body politic by the name and style of the

<sup>1</sup> Passed Jan. 29, 1864. (See Eleventh Reg. Sess. 1863-64, p. 157.) All inconsistent acts or parts of acts repealed. In effect from date.

"Seattle and Squak Railroad Company," with perpetual succession, and under that name and style shall be capable of suing and being sued, pleading and being impleaded, defending and being defended against in law and equity in all courts and places whatsoever, in like manner and as fully as natural persons; may make and use a common seal and alter or renew the same at pleasure; and by their corporate name and style shall be capable in law of contracting and being contracted with; shall be and are hereby invested with all the powers, privileges, immunities and franchises for conveying real and personal estate which may be needed to carry into effect fully the purposes and objects of this act.

§ 2. **Termini.**—SEC. 2. The said corporation is hereby authorized and empowered to survey, locate, construct, complete, alter, maintain and operate a railroad, with one or more tracks or lines of rails, commencing at or near the south end of Squak or Sammamish Lake, in King county, W. T., and running thence, in said county, to a point in or near Seattle, W. T., by said company to be selected and determined.

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§ 3. **Location, Right-of-Way, etc.**—SEC. 4. The said company are hereby authorized by their agents, surveyor or engineers, to cause such examinations and surveys to be made of the ground and country between all the points mentioned in the second section of this act, as shall be necessary to determine the most advantageous route for the proper line or course whereon to construct the said railroad, and it shall be lawful for the said company to enter upon and take possession of and use all such lands and real estate as may be necessary to the construction and maintenance of the said railroad, its depots, water stations, side tracks, machine shops, engine houses, buildings and all appendages necessary to the construction and working of said railroad: *Provided*, That all lands or real estate entered upon, taken possession of and used by said company for the purpose and accommodation of said railroad, or upon which the aforesaid railroad shall have been located or determined by the said corporation, shall be paid for by said company in damages, if any be sustained by the owner or owners thereof, by the use of the same for the purpose of the said railroad, and all lands entered upon and taken for the use of the said corporation which are not devoted to said corporation at such prices as may be mutually agreed upon by said corporation and the owners of said lands or real estate, and in case of disagreement the price shall be estimated, fixed and recovered in the manner provided for taking lands for the construction of public roads, canals or other public works.

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§ 4. **Special Powers.**—SEC. 7. The right-of-way and the real estate purchased for the right-of-way by said company, whether by mutual agreement or otherwise, or shall become the property of the company by operation of law, as in this act provided, shall, upon the payment of the amount of money belonging to the owner or owners of said land as a compensation for the same, become the property of said company in fee simple.

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§ 5. **Scope of This Act.**—SEC. 13. This act shall be deemed a public act, and shall be favorably construed for all purposes therein expressed and declared, in all courts and places whatsoever, and shall be in force from and after its passage: *Provided*, Said railroad shall be commenced within two years and be completed within six years from the passage of this act.

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CHAPTER LXI.—SEATTLE LIBRARY ASSOCIATION.

**No. 885.—AN ACT TO INCORPORATE THE SEATTLE LIBRARY ASSOCIATION.<sup>1</sup>**

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That E. A. Clark, L. V. Wyckhoff, David Graham, L. J. Holgate, Dexter Horton, John Pike, D. Parmelee, Thos. Mercer, W. H. Gilliam, H. L. Yesler, Ira Woodin, J. W. Johnson, H. L. Pike, Geo. Holt, Walter Graham, John F. Carr, J. C. Holgate, H. Van Asselt, E. Richardson, Musgrave D. H. Hill, J. C. Card, J. Foster, H. A. Atkins, J. A. Gardner, S. C. Harmon, R. M. Bacon, H. A. Smith, J. H. Nagel, and their associates and successors, be and they are hereby constituted and are declared a body corporate and body politic, to be known by the name and style of the Seattle Library Association.

§ 2. **General Powers.**—SEC. 2. Said association may by its corporate name sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory, and may receive and hold all moneys and other property coming into the hands of said association by voluntary subscriptions, contributions or otherwise; also, all legacies and devises of real or personal estate; and to have and to hold, possess or acquire lands and tenements, chattels and property of any description incident to such associations to any amount not exceeding one hundred thousand dollars, and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem proper.

\* \* \* \* \*

§ 3. **Incidental Powers.**—SEC. 4. Said association may, at any of its regular or special meetings for business, enact and pass such regulations and by-laws for the government of the same and the management of the property of said association as may be deemed necessary: *Provided*, That the same be not inconsistent with the laws of the United States or of this Territory.

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<sup>1</sup> Passed Jan. 10, 1860. (See Seventh Reg. Sess. 1859-60, p. 427.) In effect from date.

CHAPTER LXII.—SIMMILKIMEEN QUARTZ MINING COMPANY.

**No. 886.—AN ACT TO INCORPORATE THE SIMMILKIMEEN QUARTZ MINING COMPANY.<sup>1</sup>**

§ 1. **Incorporators—Name—General Powers.**—SECTION 1. *Be it enacted, etc.,* That Robert Lamphen, W. H. Low, James McAuliff, H. J. Meriman and H. F. Smith, their associates and all such persons as shall hereafter become stockholders in said company hereby incorporated, shall be a body politic by the name and style of the Simmilkimeen Quartz Mining Company, with continued succession for the time herein specified, and under that name and style shall be capable of suing and being sued, impleading and being impleaded, defending and being defended against

<sup>1</sup> Approved Jan. 22, 1866. See Thirteenth Reg. Sess. 1865-66, p. 180.) In effect from date.

in law and equity in all courts in this Territory; may make and use a common seal and alter the same at pleasure; purchase, hold, sell and convey such real estate and personal property as the purposes of the corporation may require; appoint such officers, agents and servants as the business of the corporation may require; to define their powers and duties and fix their compensation; to make by-laws not inconsistent with the laws of this Territory for the complete organization of the company, the regulation of its affairs, the transfer of its stock and for all kinds of business within the objects and purposes of the company.

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§ 2. **Limitation of Privileges.**—SEC. 5. The franchise granted by the provisions of this act shall continue for the period of twenty-five years, unless sooner annulled by the voluntary dissolution of the company.

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### CHAPTER LXIII.—SISTERS OF CHARITY, ETC.

#### No. 887.—AN ACT TO INCORPORATE AN INSTITUTION OF LEARNING AND CHARITABLE PURPOSES IN THE COUNTY OF CLARK.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That Sister Joseph, and all persons who may associate themselves with her, and their successors, be and they are hereby declared a body politic and corporate, under the name and style of the "Sisters of Charity, of the House of Providence, in the Territory of Washington."

\* \* \* \* \*

§ 2. **General Powers.**—SEC. 3. That the said corporation shall have continual, perpetual succession, and shall have power to acquire, receive and possess by donation, gift or purchase, and to retain and enjoy property, real, personal and mixed, and the same to sell, grant, convey, rent, or otherwise dispose of at pleasure: *Provided however*, That no part of the resources thereof shall ever be used for any other than the purposes above specified. \* \* \* Such corporation shall have power to contract and be contracted with, sue and be sued, plead and be impleaded in all courts of justice, both at law and in equity; they shall cause to be made for their use a common seal, impressed with such devices and inscriptions as they shall deem proper, by which said seal all deeds and acts of said corporation shall pass and be authenticated, and they shall have power to alter or amend said seal at their pleasure; they shall have power to form and adopt a constitution and by-laws for their government, to make and carry into effect all necessary regulations for the management of their fiscal concerns; to appoint subordinate officers and agents; to make, ordain and establish such ordinances, rules and regulations as they may deem necessary or expedient for the good government of said corporation, its officers and agents: *Provided however*, That the said ordinances, rules and regulations shall in no manner conflict with the constitution of the United States or the laws of this Territory.

\* \* \* \* \*

§ 3. **Execution of Deeds.**—SEC. 5. That all deeds or other instruments of conveyance shall be signed by the superioress, president of the corporation, and by her acknowledged in her official capacity, and sealed with the seal of the corporation.

<sup>1</sup> Passed Jan. 28, 1859. (See Sixth Reg. Sess. 1858-59, p. 40.)

CHAPTER LXIV.—SKOOKUM CHUCK, ETC., ROAD COMPANY.

**No. 888.—AN ACT TO INCORPORATE THE SKOOKUM CHUCK AND COWLITZ PLANK ROAD COMPANY.<sup>1</sup>**

§ 1. **Commissioners to Incorporate.**—SECTION 1. *Be it enacted, etc.,* That O. B. McFadden, Marcel Chappellier, Henry Winsor, Timothy R. Winston, John R. Jackson, John McElroy, Sydney S. Ford, James Phillips, Marcel Bernier, Wesley B. Gosnell, A. B. Dillenbaugh and Henry Miles be and are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Skookum Chuck and Cowlitz Plank Road Company, hereby incorporated; \* \* \*

§ 2. **When Incorporated—Name—General Powers.**—SEC. 2. The capital stock of said company shall be thirty thousand dollars, in shares of twenty-five dollars each, and as soon as one hundred shares of the capital stock shall be subscribed, and five per cent. of the amount thereof actually paid in or secured to the said company, the subscribers to said stock, with such other persons as shall thereafter associate with them for that purpose, their successors and assigns, shall be and they hereby are created and declared a body corporate and politic, by the name and style of the "Skookum Chuck and Cowlitz Plank Road Company," with perpetual succession, and by that name shall be capable in law of purchasing, holding, selling, bargaining and conveying estate, real, personal and mixed, have a common seal, which they may alter or renew at pleasure, and generally may do all and singular the matters and things which an incorporated company may by law do.

\* \* \* \* \*

§ 3. **Incidental Powers.**—SEC. 5. \* \* \* They shall also have power to make all necessary and proper by-laws, rules and regulations for the management of said company, the subscription of stock, the payment of installments thereon, the assignment and transfer of stock certificates, and prescribing the duties of officers; all of which by-laws not inconsistent with the laws of the Territory, when duly recorded in the books of the company, shall be effectual and binding upon the members of said company and all persons interested therein, as if the same formed a part of this act of incorporation.

\* \* \* \* \*

§ 4. **Location, etc.—Damages—Right-of-Way.**—SEC. 9. It shall and may be lawful for said company, their officers, engineers and agents, to enter upon any lands for the purpose of exploring, surveying and locating the route of said plank road, doing thereto no unnecessary damage; and when said route shall be determined by said company, it shall be lawful for them, their agents, officers, engineers, contractors and servants, at any time to enter upon, take possession of and use such lands, not exceeding four rods in width, along the line of said route, subject, however, to the payment of such compensation as the company may have agreed to pay therefor, or as may be established by law.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 14, 1865. (See Twelfth Reg. Sess. 1864-65, p. 124.) In effect from date.

## CHAPTER LXV.—SKOKOMISH LUMBER COMPANY.

No. 889.—AN ACT TO INCORPORATE THE SKOKOMISH LUMBER COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—*Be it enacted, etc.,* That Edward A. Wilson, Judson Anderson and Eual Brennan, together with other persons that may become associated with them, be and are hereby constituted a body corporate and politic, with power to sue and be sued, under the name and style of "Skokomish Lumber Company," for the purpose of removing jams and other obstructions to driving or floating logs or timber down Skokomish river on ordinary freshets.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 26, 1861. (See Eighth Reg. Sess. 1860-61, p. 119.) In effect from date.

## CHAPTER LXVI.—SKOQUAMISH AND WENATCHEE ROAD COMPANY.

No. 890.—AN ACT TO INCORPORATE THE SKOQUAMISH AND WENATCHEE ROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Francis Dolon, Salem Woods, Jacob D. Fowler, Henry McClerg and William Cisson, or either of them, and their associates, are hereby constituted and declared a body corporate and politic, and shall be known as the Skoquamish and Wenatchee Road Company, \* \* \*

§ 2. **General Powers.**—SEC. 2. The said company is hereby empowered and authorized to purchase and possess and enjoy all lands, goods, chattels and effects of every kind, to any amount not exceeding in value the sum of fifty thousand dollars, necessary to carry into effect the object of said corporation, and the same to use and dispose of, and to sue and be sued in any court having competent jurisdiction, and to ordain and establish such regulations as may be necessary for such corporation, subject to the constitution of the United States and laws of this Territory.

\* \* \* \* \*

§ 3. **Limitation of Privileges.**—SEC. 6. The privileges and immunities herein granted to the said corporation, the Skoquamish and Wenatchee Road Company, shall exist and continue in said company for the term of twenty years: \* \* \*

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1861. (See Tenth Reg. Sess. 1862-63, p. 63, Local Laws.) In effect from date.

## CHAPTER LXVII.—SNOHOMISH CITY MILL COMPANY.

No. 891.—AN ACT TO INCORPORATE THE SNOHOMISH CITY MILL COMPANY.<sup>1</sup>

§ 1. **Commissioners to Incorporate.**—SECTION 1. *Be it enacted, etc.,* That Clark Ferguson, W. B. Sinclair, M. L. King, John Harvey, E. C.

<sup>1</sup> Approved Jan. 17, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 200.) In effect from date.

**Ferguson and Charles Short** be and are hereby appointed commissioners, under the directions of a majority of whom subscriptions may be received to the capital stock of the Snohomish City Mill Company hereby incorporated, and they may cause books to be opened at such times and places as they shall direct for the purpose of receiving subscriptions to the capital stock of said company, first giving thirty days' notice of the time and places of taking such subscriptions, by publishing the same in some newspaper in this Territory, or by posting notices thereof in not less than three public places in Snohomish county.

**§ 2. When Incorporated—General Powers.**—SEC. 2. The capital stock of said company shall be thirty thousand dollars, in shares of twenty-five dollars each, and as soon as one hundred shares of the capital stock shall be subscribed, and ten per cent. of the amount thereof actually paid in or secured to the said company, the subscribers to said stock, with such other persons as shall thereafter associate with them for that purpose, their successors and assigns, shall be and they are hereby created and declared a body corporate and politic by the name and style of the Snohomish City Mill Company, with perpetual succession, and by that name shall be capable in law of purchasing, holding, selling, bargaining and conveying estate, real, personal and mixed; have a common seal which they may alter or renew at pleasure, and generally may do all and singular the matters and things which an incorporated company may by law do.

\* \* \* \* \*

**§ 3. May Use Certain Waters.**—SEC. 9. It shall and may be lawful for said company, in the prosecution of the objects of said corporation, to use the water in said creek, to construct a dam or dams across said creek whenever said company may deem it necessary, to build a flume or flumes for the purpose of conveying water from the dam to said mill, and they may enter upon and take possession of and use any lands, timber or stone necessary to the prosecution of said work, subject, however, to the payment of such compensation as the company may have agreed to pay therefor, or as may be established by law.

\* \* \* \* \*

## CHAPTER LXVIII.—SPILGIE CREEK LOG DRIVING COMPANY.

### No. 892.—AN ACT TO INCORPORATE THE SPILGIE CREEK LOG DRIVING AND BOOM COMPANY.<sup>1</sup>

**§ 1. Incorporators — Name.**—SECTION 1. *Be it enacted, etc.,* That George Backman, Lewis Miller, Thomas Fobister and John Robinson, their heirs, successors, assigns, and such other persons as they may associate with them, be and they are hereby constituted and declared a body politic and corporate by the name and style of the Spilgie Creek Log Driving and Boom Company.

\* \* \* \* \*

**§ 2. General Powers.**—SEC. 4. The said corporation, by the name and style aforesaid, shall be capable in law of purchasing, holding and conveying real estate and personal property of all kinds for the benefit of said corporation, and may sue and be sued, plead and be impleaded, prosecute and defend in all manner of actions at law or in equity, in all

<sup>1</sup> Approved Jan. 18, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 198.) In effect from date.



places where legal or equitable proceedings are had, and shall have power to make such by-laws, rules and regulations for its own government and the management of its affairs as shall be deemed advisable, and to alter or amend the same at pleasure: *Provided*, That such by-laws, rules and regulations shall not conflict with the constitution and laws of the United States or of the Territory of Washington.

\* \* \* \* \*

### CHAPTER LXIX.—SPOKANE BRIDGE COMPANY.

#### No. 893.—AN ACT TO INCORPORATE THE SPOKANE BRIDGE COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name — General Powers.**—*Be it enacted, etc.*, That W. J. Terry and William Nix, and such others as may become associated with them, be and they are hereby constituted and declared a body politic and corporate, by the name and style of the "Spokane Bridge Company," for the purpose of constructing a bridge across the Spokane river, Spokane county, at or near the government crossing, or within five miles of said crossing, that is: two and a half miles above or below said crossing; and said company shall have the exclusive right to maintain and construct a bridge within the above limits; and for such [purpose] the company be hereby authorized and empowered to have and receive, purchase and possess, enjoy and retain lands and rents, goods and chattels, and effects of any kind and to any amount within the capital stock of said company, as limited by this act, necessary to carry into effect the object of this corporation, and the same to use, alien, sell and dispose of at pleasure; to sue and be sued, defend and be defended, in all courts having competent jurisdiction; to have and use a common seal, the same to break, alter and amend at pleasure; to ordain and establish such rules and regulations and by-laws as may be necessary for the well-being of said corporation, subject, however, to the laws of the United States and of this Territory.

\* \* \* \* \*

§ 2. **Limitation of Privileges.**—SEC. 17. This act shall take effect and be in force from and after its passage for the term of ten years.

<sup>1</sup> Passed Jan. 16, 1861. (See Eighth Reg. Sess. 1860-61, p. 97.)

### CHAPTER LXX.—STEILACOOM LIBRARY ASSOCIATION.

#### No. 894.—AN ACT TO INCORPORATE THE STEILACOOM LIBRARY ASSOCIATION OF WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Incorporators — Name.**—SECTION 1. *Be it enacted, etc.*, That A. B. Delin, A. F. Byrd, E. A. Light, W. H. Wallace, W. R. Downy, W. P. Dougherty, William Lane, S. McCaw, B. Pierce, Frank Clark, Sherwood Boney, O. H. White, E. M. Meeker, Wm. N. Savage, Nathaniel Orr, and their associates and successors, be and they are hereby constituted and declared a body corporate and politic, to be known by the name and style of "Steilacoom Library Association of Washington Territory."

<sup>1</sup> Passed Feb. 3, 1858. (See Fifth Reg. Sess. 1857-58, p. 47.)

**§ 2. General Powers.**—SEC. 2. Said association may, by its corporate name, sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory, and may receive and hold all moneys and other property coming into the hands of said association by voluntary subscriptions, contributions or otherwise; also all legacies and devises of real or personal estate, and to have and to hold, possess or acquire lands and tenements, chattels and property of any description incident to such associations to any amount not exceeding twenty thousand dollars, and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem expedient.

\* \* \* \* \*

**§ 3. Right of Repeal.**—SEC. 5. This act, for good cause shown, may be repealed by any subsequent legislature.

## CHAPTER LXXI.—STEILACOOM LODGE, No. 2, MASONS.

### No. 895.—AN ACT TO INCORPORATE STEILACOOM LODGE, No. TWO, OF ANCIENT FREE AND ACCEPTED MASONS.<sup>1</sup>

**§ 1. Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That the masters, wardens and members of Steilacoom Lodge, No. 2, of Ancient Free and Accepted Masons, their associates and successors, be and they are hereby constituted and declared a body corporate and politic to be known by the name and style of Steilacoom Lodge, No. 2, of Ancient Free and Accepted Masons.

**§ 2. General Powers.**—SEC. 2. Said lodge may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory, and may receive and hold all moneys and other property coming to their hands, by voluntary subscriptions, contributions or otherwise; also, all legacies and devises of real or personal estate, and to have, hold, possess or acquire lands and tenements, furniture, chattels, regalia and property of any description, incident to such bodies, to an amount not exceeding one hundred thousand dollars; and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem expedient.

**§ 3. Special Powers.**—SEC. 3. The masters and wardens, upon an order made at any regular communication of said lodge, may dispose of any property, either real or personal, or mortgage the same, that belongs to the lodge, and they are hereby authorized, upon such order being first made, to make, execute and deliver in due form of law the proper and legal muniment of the transaction.

**§ 4. Execution of Deeds, etc.**—SEC. 4. No deed, mortgage, bill of sale or other evidence of incumbrance shall be of any validity, nor be binding upon said lodge unless the same shall be executed by the master and wardens, and shall be by them in their official capacity acknowledged before some person authorized to take acknowledgments of deeds to be their free and voluntary act and deed, and to be done in pursuance of an order of their lodge made at a regular communication of the same.

**§ 5. Deeds, etc., Properly Executed, Valid.**—SEC. 5. Any paper executed and acknowledged as above provided, and certified by the secretary

<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 53, Local Laws.) All conflicting acts and parts of acts repealed. In effect from date.

under the seal of his lodge to be in accordance with the order made at a regular communication of the same, shall be received and respected, and treated as binding upon the lodge by all the courts of this Territory, but none shall be so considered unless so authenticated.

§ 6. **Special Powers.**—SEC. 6. The said lodge may, at any of their meetings for business, enact and pass such rules, regulations and laws for the government of said lodge and its management as they may deem necessary: *Provided*, The same be not inconsistent with the laws of the United States or of this Territory.

\* \* \* \* \*

## CHAPTER LXXII.—STEILACOOM LODGE, No. 8, MASONS.

### No. 896.—AN ACT TO INCORPORATE STEILACOOM LODGE, No. 8, OF FREE AND ACCEPTED MASONS.<sup>1</sup>

§ 1. **Incorporators — Name.**—SECTION 1. *Be it enacted, etc.*, That the masters, wardens and members of Steilacoom Lodge, No. 8, of "Free and Accepted Masons," their associates and successors, be and they are hereby constituted and declared a body corporate and politic, to be known by the name and style of "Steilacoom Lodge, No. 8, of Free and Accepted Masons."

§ 2. **General Powers.**—SEC. 2. Said lodge may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory, and may receive and hold all moneys and other property coming to their hands by voluntary subscriptions, contributions or otherwise; also all legacies and devises of real and personal estate; and to have, hold, possess or acquire lands and tenements, furniture, chattels, regalia and property of any description incident to such bodies to an amount not exceeding twenty thousand dollars; and the estate aforesaid to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **Incidental Powers.**—SEC. 3. The said lodge may, at any of their meetings for business, enact and pass such rules, regulations and laws for the government of said lodge, and its management, as they may deem necessary: *Provided*, The same be not inconsistent with the laws of the United States or of this Territory.

\* \* \* \* \*

§ 4. **Date in Effect.**—SEC. 5. This act to take effect and be in force from and after its passage.

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-57, p. 74.)

### No. 897.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE STEILACOOM LODGE, No. 8, OF FREE AND ACCEPTED MASONS."

§ 1. SECTION 1. *Be it enacted, etc.*, That [the act] of which this is amendatory be so amended as to read: "Steilacoom Lodge, No. 2, of Free and Accepted Masons."

§ 2. SEC. 2. This act to take effect and be in force from and after its passage.

<sup>1</sup> Passed Dec. 21, 1859. (See Seventh Reg. Sess. 1859-60, p. 421.)

CHAPTER LXXIII.—STILLWELL, ET AL.

**No. 898.**—AN ACT TO AUTHORIZE L. STILLWELL, W. P. FRENCH, THOMAS GILKERSON, T. P. PAGE, AND SUCH OTHERS AS THEY MAY CHOOSE TO ASSOCIATE WITH THEM, TO CONSTRUCT A DITCH FOR IRRIGATING AND MANUFACTURING PURPOSES IN WALLA WALLA COUNTY.<sup>1</sup>

§ 1. **Incorporators.**—SECTION 1. *Be it enacted, etc.,* That L. Stillwell, W. P. French, Thomas Gilkerson, T. P. Page, and such others as they may choose to associate with them, their heirs and assigns, be and they are hereby created a body corporate for the purposes and with the powers and privileges hereinafter set forth.

§ 2. **Purpose.**—SEC. 2. The purpose of said corporation and the object for which it is created, is to furnish the public with water for agricultural and manufacturing purposes.

§ 3. **Special Powers.**—SEC. 3. The power of said corporation shall be to take water from Mill creek, in Walla Walla county, Washington Territory, not to exceed one-half of said creek at a point near Fields and brother's land claim, and to convey the same through the land claims of A. John, Jephtha Arrison, T. P. Page, John Tracy, True Haman, C. Galbreath, T. Gilkerson, Jacob Kibler, — Titus and A. McKern; thence in a westerly direction through the public land for one mile, and thence to Mill creek, with the right to dig all ditches and erect all dams and flumes necessary for the accomplishment of said object.

§ 4. **General Powers.**—SEC. 4. Said corporation shall have all the usual powers of corporate bodies, may adopt a corporate name, elect its officers and prescribe their terms of office and their powers, adopt by-laws, have and use a corporate seal, sue and be sued, and make all necessary contracts for hire, material and other things necessary for the construction of said ditch, and in disposal of said water.

\* \* \* \* \*

§ 5. **Restrictive Clause.**—SEC. 14. This act shall not be construed to empower said corporation to divert water which may be necessary to run any mill or machinery erected on Mill creek or any of its branches.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 28, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 207.) In effect from date.

CHAPTER LXXIV.—TUMWATER DIVISION, No. 3, S. OF T.

**No. 899.**—AN ACT TO INCORPORATE TUM-WATER DIVISION, No. 3, SONS OF TEMPERANCE.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That the officers and members of Tum-Water Division, No. 3, of Sons of Temperance, located at Tum-Water, county of Thurston, and their successors, be and they are hereby constituted and declared a body corporate, to be known by the name of Tum-Water Division, No. 3, Sons of Temperance.

§ 2. **General Powers.**—SEC. 2. Said division may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended,

<sup>1</sup> Passed Jan. 28, 1859. (See Sixth Reg. Sess. 1858-59, p. 44.) In effect from date.

in all courts in this Territory, and may receive and hold all moneys and other property coming into their hands by voluntary subscriptions, contributions or otherwise, as well as all legacies and devises of real or personal estate; and shall be empowered to have, hold, possess or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such bodies, to an amount not exceeding twenty thousand dollars, and the estate hereinbefore mentioned to lease, grant, convey and dispose of in such manner as they may deem expedient.

§ 3. **Incidental Powers.**—SEC. 3. Said division may, at any of their meetings, enact and pass such rules, regulations and laws for the government and management of said division as they may deem expedient: *Provided*, The same be not inconsistent with the laws of the United States or this Territory.

\* \* \* \* \*

## CHAPTER LXXV.—UNION CEMETERY.

### No. 900.—AN ACT TO ORGANIZE THE UNION CEMETERY OF THURSTON COUNTY.<sup>1</sup>

§ 1. **Incorporators — Name — Purpose.**—SECTION 1. *Be it enacted, etc.* That William Jenks, James Dunlap and Morris Littlejohn be and they are hereby declared a body corporate and politic by the name and style of the Union Cemetery, for the only and express purpose of procuring a suitable piece or parcel of land for a cemetery or burying ground.

§ 2. **Execution of Deeds, etc.**—SEC. 2. That the deed of conveyance shall be taken in the name of the persons herein incorporated, and to their successors forever, and the deed of conveyance shall be recorded in the county records as the law provided in other cases, and also in the books of the said corporation, and filed in the office of the secretary of the corporation.

\* \* \* \* \*

§ 3. **Power of Trustees.**—SEC. 4. That the trustees shall have power, and it is hereby made their duty to cause a thorough survey of the land, and shall cause plats to be made and numbered, designating exactly the lots and fractional parts of lots now occupied, and the names of persons heretofore buried therein.

\* \* \* \* \*

§ 4. **Certificate of Ownership.**—SEC. 11. That the secretary is hereby authorized to give to any person requesting the same, a certificate under his official hand, of such person being the owner of a lot or lots in the cemetery, with a description by number, having reference to plat and record of the association, which certificate may be transferred by assignment and held as good and valid: *Provided, however*, No transfer shall be valid except the same appear on the books of the association.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 17, 1865. (See Thirteenth Reg. Sess. 1865-66, p. 190.) In effect from date.



CHAPTER LXXVI.—VANCOUVER AND SIMCOE TRAIL COMPANY.

No. 901.—AN ACT TO INCORPORATE THE VANCOUVER AND SIMCOE TRAIL OR ROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—Route.**—*Be it enacted, etc.,* That E. H. Lewis, G. T. McConnell, E. L. Dole, Jehu Switzler, William Switzler, and and their associates, their heirs and assigns, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the "Vancouver and Simcoe Trail or Road Company." The said trail or road to be used for the transportation of freight, passengers and mails, and to be constructed between the fifth plain, ten miles northeast of Vancouver, in Washington Territory, and at a point near Fort Simcoe, in said Territory; commencing at the fifth plain, running north of east seventy-five miles to a point where it intersects the trail marked out by Capt. G. B. McClellen, thence a northeasterly course about thirty-five miles to a point near Fort Simcoe.

\* \* \* \* \*

§ 2. **General Powers.**—SEC. 4. The Vancouver and Simcoe Trail or Road Company is hereby authorized and empowered to receive, purchase and possess, enjoy and retain lands, lots, tenements, goods, chattels, rents and effects of any and every kind, to any amount necessary to carry into effect the objects of said company, and the same to use, alien, sell and dispose of at pleasure; to sue and be sued in any court having competent jurisdiction; to have and use a common seal; to ordain such rules, and establish such regulations and by-laws as may be necessary for the well-being of said corporation, subject to the constitution of the United States and the laws of this Territory.

\* \* \* \* \*

§ 3. **Limitation of Privileges—Right of Repeal.**—SEC. 18. This act shall continue in force for twenty years after its passage, and shall be taken and deemed to be a public act: \* . \* \*

<sup>1</sup> Passed Jan. 12, 1861. (See Eighth Reg. Sess. 1860-61, p. 88.)

CHAPTER LXXVII.—VANCOUVER HIBERNIAN SOCIETY.

No. 902.—AN ACT TO INCORPORATE THE VANCOUVER HIBERNIAN SOCIETY OF WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Incorporators—Name.**—*Be it enacted, etc.,* That Patrick A'Hern, William Kelley, P. O. Kearue and Peter H. Fox, officers and members of the Vancouver Hibernian Benevolent Society, their associates and successors, be and they are hereby constituted and declared a body corporate and politic, in deed, fact and name, to be known by the name and style of the "Vancouver Hibernian Benevolent Society of Washington Territory."

§ 2. **General Powers.**—SEC. 2. By that name they and their successors shall be able and capable in law to sue and be sued, plead and be im-

<sup>1</sup> Passed Jan. 12, 1861. (See Eighth Reg. Sess. 1860-61, p. 91.)

pleaded, defend and be defended against in all the courts of law and equity in this Territory; to take, receive and hold all moneys and other property by voluntary contributions, donations or otherwise, also legacies and devises of personal estate; and to have, hold, possess and acquire lands and tenements, furniture, chattels and regalia, property of any description incidental to such bodies, to an amount not exceeding fifty thousand dollars.

§ 3. **Special Powers.**—SEC. 3. And the estate aforesaid to lease, grant, convey and dispose of in such manner as the association may deem expedient, and at any of their meetings for business to enact and pass such rules, regulations and by-laws and elect such officers for the government of said association and management of the property thereof as may be deemed proper and necessary: *Provided*, The same be not inconsistent with the laws of this Territory and of the United States.

## CHAPTER LXXVIII.—VANCOUVER LITERARY SOCIETY.

### No. 903.—AN ACT TO INCORPORATE THE VANCOUVER LITERARY ASSOCIATION OF WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Incorporators—Name.**—*Be it enacted, etc.*, That John Aird, Geo. Tooty, J. S. Taylor, Hiram Cochran, M. C. Israel, S. C. Archiles, J. T. Bowles, A. P. Bonzey, Mr. Clough, C. C. Bozarth, Robert German, N. Henrixson, Wm. Ranch, Dan. Haley and Robert S. Maxey, together with their associates and all who may become associates, be and they are hereby made, constituted and declared a body corporate and politic, by the name and style of the Vancouver Literary Association of Washington Territory.

§ 2. **General Powers—Purpose.**—SEC. 2. Said association may, by its corporate name, sue and be sued, plead and be impleaded, defend and be defended against in all the courts of law and equity in this Territory having competent jurisdiction, and may receive and hold all moneys and other property coming into the hands of said association by voluntary subscriptions, contributions or otherwise; also, legacies and devises of real or personal estate; to have, hold and enjoy, possess or acquire lands and tenements, chattels, goods and property of any description incident to said association, to any amount not to exceed fifty thousand dollars; and the estate aforesaid to lease, grant, convey and dispose of at pleasure: *Provided*, That said association shall not be for any other purpose than the cultivation and development of the mind, and for the mutual benefit of society.

\* \* \* \* \*

<sup>1</sup> No date given. (See Eighth Reg. Sess. 1860-61, p. 106.)

CHAPTER LXXIX.—WALLACUT PORTAGE RAILROAD COMPANY.

**No. 904.**—AN ACT TO INCORPORATE THE WALLACUT PORTAGE RAILROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—Purpose.**—SECTION 1. *Be it enacted, etc.,* That Samuel Sweeny, John E. Pickernell, John Pickernell, jr., and all other persons who shall become associated with them by subscribing stock, their assigns and successors, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the “Wallacut Portage Railroad Company,” for the purpose of constructing a railroad for the transportation of passengers, freight and mails, from some point on the Wallacut river, or slough, on the claim of the said John E. Pickernell, to some point at or near the head of navigation on Shoalwater Bay, in the county of Pacific.

§ 2. **General Powers.**—SEC. 2. Said company may own and possess any amount of stock and property of any description whatever, real, personal or mixed, necessary to carry on its business, which they may purchase or possess, sell and dispose of at pleasure; may sue and be sued in any court of competent jurisdiction; may have and use a common seal, which they may alter, break and renew at pleasure; may appoint one or more agents for the transaction of their business, whom they may dismiss and change at pleasure; and may from time to time make such rules, regulations and by-laws as they may deem necessary or useful, and the same amend and change at pleasure, subject however to the constitution and laws of the United States and the laws of this Territory.

§ 3. **Right-of-Way, etc.: How Secured, etc.**—SEC. 3. Said company shall have the right to secure, for the purpose of constructing a railroad, a tract of land running from point to point between the points above specified, not exceeding seventy-five feet in width, except where a greater width of land shall be required for turnouts or depots. When said land is owned by private claimants said company, before using the same, shall procure a conveyance, if practicable, from the owner thereof: *Provided,* That in all cases where it is not practicable to procure an agreement with such owners the said company may, upon giving to such owners such notice as is by law required in the case of the service of civil process in the district court, apply to the county commissioners of Pacific county to appoint suitable persons as appraisers to appraise the damage to the owners of said land from the use of the same for the purposes aforesaid: *And provided further,* That in all cases where the right-of-way is not acquired by an agreement between the company and the parties interested, the land shall revert when it ceases to be used for the purposes aforesaid.

§ 4. **Appraisement and Settlement of Damages.**—SEC. 4. It shall be the duty of the board of county commissioners of Pacific county, at any regular session, when a petition for that purpose may be presented to them by said company, setting forth that certain lands are necessary for them to use for the purposes aforesaid of said railroad, concerning which no satisfactory agreement can be made with the owners thereof, upon being satisfied that due notice has been given either personally or by publication, to appoint three suitable persons, residents of the county of Pacific, not interested in the matter in dispute, as appraisers, who shall proceed to determine whether the land is necessary for the purposes set forth, and appraise the damages which the owner or owners thereof will

<sup>1</sup> Passed Jan. 30, 1860. (See Seventh Reg. Sess. 1859–60, p. 460.)

suffer from the appropriation thereof, and report the same to the board of county commissioners, before whom either party may appear and except. The board of county commissioners may approve such report, or may reject the same and appoint other appraisers, whereupon like proceeding shall be had as in case of appraisers first appointed. Either party, if dissatisfied with the decision of the board of county commissioners, may, within twenty days thereafter, take an appeal to the district court where the case shall be heard and determined like any other civil case; the said district court having the same power to approve or reject the report of the appraisers and appoint new appraisers as is given to the board of county commissioners.

**§ 5. Payment of Damages—Limitation of Privileges, etc.—SEC. 5.** Upon the approval of the report of the appraisers by the board of county commissioners, or in case of appeal to the district court, it shall be the duty of said company to pay the amount of damages awarded, or secure them to be paid, within sixty days after demand by the parties interested, to the satisfaction of the county commissioners; and when such payment is made or security given, the said company shall be fully authorized to appropriate the lands for the purposes aforesaid. The rights and privileges herein granted shall continue for the space of fifteen years from the first day of January, 1860: *Provided, nevertheless,* That the said company shall, within five years from the period above specified, have constructed, between the above named points, a railroad, with cars capable and sufficient to transact all the freight and passenger's business which may be required; which said road shall be of wood, or of wood with iron rails, and propelled by steam or other power, as said company shall deem best; and if they shall fail to have said road completed, or shall hereafter fail to keep the same in repair for the space of more than ninety days at one time, they shall forfeit all their rights under this charter.

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## CHAPTER LXXX.—WALLA WALLA AND CLEARWATER ROAD COMPANY.

### No. 905.—AN ACT TO INCORPORATE THE WALLA WALLA AND CLEARWATER ROAD COMPANY.<sup>1</sup>

**§ 1. Incorporators — Name — Purpose.**—*The Legislative Assembly of the Territory of Washington do enact as follows:* Elias D. Pierce, Joseph L. Davis, James Buckley and Lycurgus Jackson and such others as shall become associated with them as corporators for the purposes herein named, and their successors, are hereby constituted and declared a body corporate and politic, and shall be known as the "Walla Walla and Clearwater Road Company," for the purpose of leveling and constructing a road, with the necessary bridges and ferries and causeways, from Walla Walla, or such point near thereto, as the said company may select, to such point on the south fork of the Clearwater river as the said company may select and find practicable, by such route as they may deem most advantageous for the construction of the said road: *Provided,* That the route by the crossings of the Touchet, Tucanan, Snake river, at or near the junction of Clearwater, Lapwai, South Fork of Clearwater and Salmon river, shall be

<sup>1</sup> Passed Jan. 10, 1861. (See Eighth Reg. Sess. 1860-61, p. 84.)

the route of said road, unless a more practicable route be found by said company.

§ 2. **General Powers.**—SEC. 2. The said company is hereby empowered and authorized to have, receive, purchase, possess, enjoy and retain lands, tenements, goods, chattels and effects of any kind, and to any amount not exceeding in value the sum of fifty thousand dollars, necessary to carry into effect the objects of said corporation, and the same to use, alien, sell and dispose of; to sue and be sued in any court having competent jurisdiction; to have and to use a common seal, and to ordain and establish such rules, regulations and by-laws as may be necessary for said corporation; subject, however, to the constitution of the United States, the laws of this Territory, and the restrictions and limitations contained in this act.

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## CHAPTER LXXXI.—WALLA WALLA LIBRARY AND LITERARY ASSOCIATION.

### No. 906.—AN ACT TO INCORPORATE A LIBRARY AND LITERARY ASSOCIATION IN THE TOWN OF WALLA WALLA.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That W. W. Johnson, B. N. Sexton, L. B. Monson, L. J. Rector, J. H. Kendrick, Augus McKay and the officers and members of the Calliopian Society of Walla-walla, their associates and successors, be and the same are hereby constituted a body politic and corporate, under the name and style of the Walla-walla Library and Literary Association.

§ 2. **General Powers.**—SEC. 2. That said society, under its corporate name, shall have perpetual succession, may sue and be sued, plead and be impleaded, defend and be defended in all the courts of law and equity in this Territory.

§ 3. **Special Powers.**—SEC. 3. Said corporation may receive and hold all moneys or property coming to their hands by voluntary subscriptions, contributions or otherwise, or apply the same to the establishing and maintaining of a library, and may also receive and hold all donations of books, papers and periodicals that may be donated for that purpose.

§ 4. **Incidental Powers.**—SEC. 4. The said association may hold its meetings at such times and places, and elect such officers and pass such laws and regulations for the government and management of said society as they deem necessary: *Provided,* That the same be not inconsistent with the constitution and laws of the United States and of the Territory of Washington.

<sup>1</sup> Approved Jan. 20, 1865. (See Twelfth Reg. Sess. 1864-65, p. 139.)



## CHAPTER LXXXII.—WALLA WALLA LODGE, No. 7, MASONS.

**No. 907.—AN ACT TO INCORPORATE WALLA WALLA LODGE, No. 7, OF ANCIENT FREE AND ACCEPTED MASONS.<sup>1</sup>**

§ 1. **Incorporators — Name.**—SECTION 1. *Be it enacted, etc.,* That the worshipful master, senior and junior wardens, secretary and treasurer, senior and junior deacons, and each and every member of Walla-walla Lodge, No. 7, of Ancient Free and Accepted Masons, located in the city of Walla-walla, county of Walla-walla and Territory of Washington, and their successors in office and membership, while holding such offices or membership, shall be and the same are hereby declared to be a body politic and corporate, by the name, style and description of Walla-walla Lodge, No. 7, of Free and Accepted Masons.

§ 2. **General Powers.**—SEC. 2. The said corporation, by the name, style and title aforesaid, shall have power to sue and be sued, plead and be impleaded, prosecute and defend in all manner of actions at law or in equity, in all places where legal or equitable proceedings are had. The said corporation shall have power to make such by-laws, rules and regulations for its own government and the management of its concerns as shall be deemed advisable, and to alter or amend the same at pleasure: *Provided*, That such by-laws, rules and regulations shall not conflict with the constitution and laws of the United States or of the Territory of Washington, nor the constitution, laws and standing resolutions of the Grand Lodge of Washington Territory, Free and Accepted Masons.

§ 3. **May Hold, etc., Real Estate.**—SEC. 3. The said corporation, by the name and style aforesaid, shall be capable in law of purchasing, holding and conveying real estate and personal property of all kinds for the benefit of said corporation: *Provided*, That said corporation shall not at any time hold real estate to the value of more than thirty thousand dollars, nor personal property or mixed property to an amount exceeding twenty thousand dollars.

§ 4. **May Receive Mortgages, etc.**—SEC. 4. The said corporation shall have power to loan money belonging to the same, to take promissory notes, mortgages or other evidence of debt for the money so loaned, or any property sold by said corporation, which may be recorded in their corporate name aforesaid, in all courts or places where judicial proceedings are had.

§ 5. **Limitation of Indebtedness.**—SEC. 5. The said corporation shall have power to borrow money: *Provided*, That at no time shall the said corporation borrow or owe more than one thousand dollars, nor pay a greater rate of interest than twenty per cent. per annum.

§ 6. **Incidental Powers.**—SEC. 6. That in the management of its business concerns, said corporation is authorized and empowered to appoint and employ such officers, agents and attorneys as from time to time may be deemed necessary, and shall possess all the rights, powers and privileges usually granted to corporations of this style and nature.

§ 7. **Construction of This Act.**—SEC. 7. This act shall be deemed a public act, and shall be liberally construed by all courts for the benefit of the corporation herein created.

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<sup>1</sup> Passed Jan. 30, 1864. (See Eleventh Reg. Sess. 1863-64, p. 115.) In effect from date.

CHAPTER LXXXIII.—WALLA WALLA AND WALLULA TURN-PIKE COMPANY.

No. 908.—AN ACT TO INCORPORATE THE WALLA-WALLA AND THE WALLULA TURNPIKE ROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—Purpose.**—SECTION 1. *Be it enacted, etc.,* That George F. Thomas, Lewis Day, Daniel J. Welch, E. L. James and all other persons who shall be associated with them for that purpose, be and are hereby created and constituted a body politic and corporate, by the name and style of the Walla-walla and Wallula Turnpike Road Company; and said company is hereby authorized and empowered to build a continuous turnpike road from Wallula, on the Columbia river, to Walla-walla, in the county of Walla-walla, Washington Territory, on such route as said company may deem most advantageous to the public interest: *Provided*, That the said road shall in no wise conflict with, injure nor prevent the use of the county road now located and traveled between the aforesaid places: *And provided further*, That the county commissioners of Walla-walla county shall have power to grant right-of-way and use of such portion of said road as may be actually necessary in order to construct said turnpike road.

§ 2. **Location, etc.**—SEC. 2. The said company shall, before the first day of August, A. D. 1865, cause an accurate survey to be made of the line and route of such road which they may adopt as the line of its location, and shall cause an accurate map of the same to be made, which shall be filed in the office of the secretary of the Territory.

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§ 3. **Incidental Powers.**—SEC. 11. The board of directors shall have power to make, from time to time, all necessary rules, regulations and by-laws for the government of said company, which are not inconsistent with the constitution and laws of the United States nor laws of this Territory, and the same shall be binding on said company and on each and every member thereof.

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§ 4. **Restrictions.**—SEC. 13. The said company shall, on or before the first day of October, A. D. 1865, commence work on the said road and shall complete the same within eighteen months thereafter.

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<sup>1</sup> Approved Jan. 18, 1865. (See Twelfth Reg. Sess. 1864-65, p. 120.) In effect from date.

CHAPTER LXXXIV.—WALLA WALLA RAILROAD COMPANY.

No. 909.—AN ACT TO INCORPORATE THE WALLA WALLA RAIL ROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name—Purpose.**—SECTION 1. *Be it enacted, etc.,* That A. J. Cain, B. F. Whitman, L. A. Mullan, W. J. Terry, C. H. Armstrong, I. T. Abbott, I. T. Reese, S. M. Baldwin, E. L. Bonner, D. Craig,

<sup>1</sup> Passed Jan. 28, 1862. (See Ninth Reg. Sess. 1861-62, p. 119.) In effect from date.

Wm. A. Mix, Chas. Russell, J. A. Simms, Jesse Drumbeller, Jas. Reynolds, D. S. Baker, Geo. E. Cole, S. D. Smith, J. J. Goodwin, Wm. Way, Neil McSlinckey, J. G. Sparks, W. A. George, J. Van Syckle, W. W. DeLacy, A. Seitel, Wm. Ball, B. F. Stone, J. Schwabacker, B. P. Standifer, T. Brown, — Tatem, W. W. Johnson, and such other persons as may or shall be associated with them for that purpose, are hereby constituted and created a body politic and corporate, by the name and style of the "Walla Walla Rail Road Company," and said company is hereby empowered to build a continuous railroad with one or more tracks and the necessary depots, turnouts, stations and appurtenances for the proper, convenient and profitable use thereof, from Walla Walla landing, on the Columbia river, to the city of Walla Walla, in the county of Walla Walla, on such route as said company shall deem to be most advantageous to the public interests.

§ 2. **Location, etc.**—SEC. 2. The said company shall, before the first day of November, A. D. 1863, accurately survey, or cause to be surveyed, the line to be adopted as their line of location, and make or cause to be made an accurate plan or map thereof, which shall be duly filed in the office of the secretary of this Territory, and shall within said period and after said survey and exploration, determine and decide upon the route which shall be adopted in making and constructing said road, and shall within said period file such determination in the office of the secretary of the Territory.

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§ 3. **General Powers.**—SEC. 9. The corporation hereby created is authorized to purchase, receive, enter upon and hold such lands, streams of water, real and personal estate as may be necessary and convenient in carrying into effect the objects for which this corporation is granted, but all lands, streams and real estate which are not donations to said company shall be purchased by said company of the owner or owners thereof at such price as may be agreed upon, and in case such price cannot be agreed upon, then the same shall be acquired by arbitration in accordance with the laws of this Territory.

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§ 4. **Incidental Powers.**—SEC. 13. The board of directors shall have power from time to time to make all necessary rules, regulations and by-laws for the government of said company, which are not inconsistent with the laws of the United States or of this Territory, and the same shall be binding and obligatory on such company and on each and every member thereof.

§ 5. **Certain Privileges Denied.**—SEC. 14. If the said company hereby incorporated shall at any time hereafter obtain, accept or receive the grant of any banking power or privilege, or shall become possessed of any such power in whole or in part, either solely or jointly, with any other person or persons, or by the omission or addition of any name or names, or in like manner shall obtain, accept or receive the grant of any other privilege or franchise not granted or contemplated by this act, then all the rights, franchises and powers hereby granted shall cease, and the said corporation shall thereby be dissolved: *Provided*, That nothing herein contained shall be construed to prevent the said corporation from acquiring rights-of-way to the extent limited by this act, or lands necessary for the road-bed and fixtures of the said road, with the grant of all necessary streams and water courses and supplies of water necessary to the construction, maintenance and use of said road, nor to prevent the said corporation from receiving grants of land from the United States government or from individuals, for the benefit and use of said corporation, or to take and acquire the same by due course of law, under the right of eminent domain or otherwise, when not otherwise inconsistent with the provisions of this act.

§ 6. **Work Shall Begin in Five Years.**—SEC. 15. The powers and privileges granted by this act shall not be exercised or enjoyed by the corporators therein named, or by their successors, unless said corporation shall, within the period of five years after the passage of this act, in good faith commence and carry forward with all reasonable dispatch, active operations to accomplish and permanently secure the objects proposed by the terms specified herein.

§ 7. **Limitation of Privileges—Right of Amendment.**—SEC. 16. In case the corporation herein created fulfill the terms and condition herein specified, this charter shall continue in effect and force until January 1st, A. D. 1880, subject to such amendments as may be deemed necessary.

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## CHAPTER LXXXV.—WASHINGTON DIVISION, No. 5, S. OF T.

### No. 910.—AN ACT TO INCORPORATE WASHINGTON DIVISION, No. 5, SONS OF TEMPERANCE.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That the officers and members of Washington Division, No. 5, Sons of Temperance, located in Vancouver city, county of Clarke, and their successors, be and they are hereby constituted and declared a body corporate to be known by the name of "Washington Division, No. 5, of Sons of Temperance."

§ 2. **General Powers.**—SEC. 2. Said division may, by their corporate name, sue and be sued, plead and be impleaded, defend and be defended against in all courts in this Territory; and may receive and hold all moneys and other property coming into their hands by voluntary subscriptions, contributions or otherwise, as well as all legacies and devises of real and personal estate, and shall be empowered to have, hold, possess or acquire lands, tenements, furniture, chattels, regalia and property of any description incident to such bodies to an amount not exceeding twenty-five thousand dollars, and the estate hereinbefore mentioned to lease, grant, convey and dispose of in such as they may deem expedient.

§ 3. **Incidental Powers.**—SEC. 3. Said division may, at any of their meetings, enact and pass such rules, regulations and laws for the government and management of said division as they may deem expedient: *Provided,* The same be not inconsistent with the laws of the United States or this Territory.

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<sup>1</sup> Passed Jan. 27, 1859. (Sec Sixth Reg. Sess. 1858-59, p. 46.) In effect from date.

CHAPTER LXXXVI.—WASHINGTON FIRE ENGINE COMPANY.  
No. 1.

No. 911.—AN ACT TO INCORPORATE WASHINGTON FIRE ENGINE COMPANY, No. 1, OF WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc..* That F. P. Allen, Joseph Ackley, U. E. Johnson, J. D. Cook, W. P. Horton, Chas. Abel, Wm. Phillips, Wm. Kohlhauff, Jacques Bauer, Chas. Bertram, P. M. Lynch, R. R. Rees, A. Schwabacher, E. H. Massam and Ellis Brown, their associates and successors, be and are hereby constituted and declared a body corporate and politic, to be known by the name and style of Washington Fire Engine Company, No. 1, of Washington Territory.

§ 2. **General Powers.**—SEC. 2. Said corporation may by their corporate name sue and be sued, plead and be impleaded, defend and prosecute in all the courts of law and equity in this Territory; and may receive and hold all moneys coming into their hands, and all properties, real or personal, necessary for their organization, fruition and perpetuation, either by gifts, contributions or otherwise; also all legacies and devises of real estate or personal property, to have and to hold the same, and to possess lands or tenements, so far as may be necessary to further and carry out the purposes and intentions of this incorporation, together with all such rights, under a liberal construction of law, as are usually possessed by corporations of this character. The said corporation, under the name and title aforesaid, shall have power to borrow and loan money, to elect their own officers and to enact and amend such by-laws from time to time as they may deem necessary: *Provided*, That such by-laws shall in nowise conflict with the constitution of the United States or the organic act or laws of this Territory.

§ 3. **Restrictions.**—SEC. 3. The said corporation shall not have power to sell, dispose of or convey their engine house, the lot on which it may stand, their engine, hose or other fixtures; and if the said corporation shall violate any of the provisions of this section, the sale thereof shall be void, and the property so sold shall revert to the city of Walla-walla; and should this corporation ever become defunct, or the said company cease to exist as a corporate company, having at least seven members and meeting at least once in each month, all the property of said company shall vest in the city of Walla-walla, and is hereby declared to be exempt from all taxation, attachments, execution or other legal process against the said corporation, by the name and style aforesaid, or the said city of Walla-walla.

§ 4. **Disposition of Property in Certain Case.**—SEC. 4. If at any time the said company shall become defunct, and the property thereof pass to the city of Walla-walla, it shall be the duty of the city council to hold said property in trust, and to deliver it up to any company who may organize as a fire company under the name and style aforesaid, and be recognized as a fire company by the said common council.

§ 5. **Acceptance to be Filed.**—SEC. 5. The aforesaid corporators shall have the right to accept or reject this act of incorporation, and shall, before the first day of May, A. D. 1865, file with the secretary of this Territory a notice of the acceptance or rejection of this charter, which shall be signed by the president of said company and be attested by the clerk of city of Walla-walla, with the seal of said city.

<sup>1</sup> Approved Jan. 20, 1865. (See Twelfth Reg. Sess. 1864-65, p. 140.)



CHAPTER LXXXVII.—WASHINGTON LODGE, No. 4, MASONS.

No. 912.—AN ACT TO INCORPORATE WASHINGTON LODGE, No. 4, OF ANCIENT FREE AND ACCEPTED MASONS.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That W. H. Troup, worshipful master; Thomas R. Turnbull, senior warden; James Davidson, junior warden; C. R. Stegert, treasurer; Theodore J. Eckerson, secretary, and each and every member of Washington Lodge, No. 4, of Ancient Free and Accepted Masons, located in the city of Vancouver, county of Clarke and Territory of Washington, and their successors in office and associates in membership while holding such offices or membership, shall be and the same are hereby declared to be a body politic and corporate, by the name, style and description of Washington Lodge, No. 4, of Ancient Free and Accepted Masons.

§ 2. **General Powers.**—SEC. 2. The said corporation, by the name, style and title aforesaid, shall have power to sue and be sued, plead and be impleaded, prosecute and defend in all manner of actions at law or in equity, in all places where legal or equitable proceedings are had. The said corporation shall have power to make such by-laws, rules and regulations for its own government and the management of its concerns as shall be deemed advisable, and to alter or amend the same at pleasure: *Provided*, That such by-laws, rules and regulations shall not conflict with the constitution and laws of the United States or of the Territory of Washington, nor the constitution, laws and standing resolutions of the Grand Lodge of Washington Territory of Ancient Free and Accepted Masons.

§ 3. **Incidental Powers.**—SEC. 3. The said corporation, by the name and style aforesaid, shall be capable in law of purchasing, holding and conveying real estate and personal property of all kinds for the benefit of said corporation: *Provided*, That said corporation shall not at any time hold real estate to the value of more than thirty thousand dollars, nor personal property or mixed property to an amount exceeding twenty thousand dollars.

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§ 4. **Construction of This Act.**—SEC. 7. This act shall be liberally construed by all courts for the benefit of the corporation herein created.

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<sup>1</sup> Approved Jan. 11, 1865. (See Twelfth Reg. Sess. 1864-65, p. 134.) In effect from date.

CHAPTER LXXXVIII.—WASHINGTON RAILROAD COMPANY.

No. 913.—AN ACT TO INCORPORATE THE WASHINGTON RAILROAD COMPANY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.,* That Peter Donahue, William Kohl and Alexander P. Ankeny, their heirs, successors, assigns, and such other persons as they may associate with them, be and they are hereby constituted and declared a body politic and corporate, by the name and style of the Washington Railroad Company.

<sup>1</sup> Approved Jan. 14, 1865. (See Twelfth Reg. Sess. 1864-65, p. 108.)

§ 2. **Location—Right-of-Way, etc.**—SEC. 2. Said corporation shall have full power to survey, locate and relocate, own, construct, maintain in repair, and use a single or double track railroad, with such turnouts as may be necessary or convenient between suitable points to be selected on the navigable waters of the Columbia river above and below the Cascades, in the county of Skamania; and for the purpose of locating such railroad, may select and appropriate, in the manner hereinafter provided, a strip of land not exceeding thirty feet in width between the termini of said road: *Provided*, That where, for grading, bridging and embankment, more than thirty feet in width is necessary for the security of the road, a sufficient width may be appropriated; also land at the termini of said road sufficient for warehouses, wharfboats and steamboat landings, not exceeding a frontage of one thousand feet on the river by a depth of five hundred feet; also such timber and stone as may be required in the construction of said road. Said corporation shall also have power to sue and be sued, contract and be contracted with, to have and receive, purchase and possess, retain and enjoy property, real, personal and mixed, rents and effects of any kind necessary or convenient to carry into effect the objects of said corporation, and the same may use, alien, sell and dispose of at pleasure; may have a common seal, and the same may break or change at pleasure: and may make by-laws for the management of its concerns, not repugnant to the constitution and laws of the United States and the laws of this Territory.

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§ 3. **Appraisement and Settlement of Damages.**—SEC. 12. Whenever, for the purpose before named, any land shall be taken, or used or occupied, or any material taken by said company without agreement with the owner thereof as to compensation therefor, it shall be lawful and the duty of the district judge having jurisdiction, or any judge of the supreme court, to appoint three disinterested persons residing in the district to appraise and make due report and return of their appraisement of the value of the lands or material so used and taken, which shall be filed of record in the office of the clerk of the district court, and unless appeal be taken therefrom in twenty days by either party, the judgment of the court may be entered in accordance with said report and return, at any term of said court, on motion of course: *Provided*, That either party may appeal within twenty days after filing of said report and return, by entering written notice with the clerk of the court, who shall docket the cause, setting down the claimants as plaintiff and the company as defendant, and the court shall proceed to ascertain the compensation to be paid as the value of materials or lands taken; and if the amount found shall not exceed the amount appealed from, the claimant shall pay the cost, with expenses of any suit, and the judgment of said district court shall be final; and when such compensation so ascertained, according to the provisions of this act, shall be paid or tendered to the party entitled to the same, the title of said land shall vest in said company in fee simple, and a copy of such report or judgment, filed in the office of the auditor of the county in which the lands lie, shall be sufficient evidence of such title; and the said company shall have full power and authority, before and pending all such proceedings, and until they shall refuse to pay the compensation so to be ascertained as aforesaid, to use, occupy and enjoy the peaceable and uninterrupted possession of said lands for all the lawful purposes of said corporation; and they shall not before or during the pending of such proceeding, until said refusal, be disturbed in such possession, use, occupancy and enjoyment by any proceeding at law or equity: *Provided*, That in determining the amount of compensation for material or land taken, the increased value of lands of the same owner adjacent thereto, caused by the location of such railroad or any road or land of said company, shall be considered and form part of such compensation: *And provided further*, That if the title of any land taken by said

company shall be in dispute between claimants against the United States, the compensation therefor shall be ascertained and paid to the person who shall receive the patent therefor, or those claiming under him.

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## CHAPTER LXXXIX.—WASHINGTON WOOLEN MANUFACTURING COMPANY.

### No. 914.—AN ACT TO INCORPORATE THE WASHINGTON WOOLEN MANUFACTURING COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name — General Powers.**—SECTION 1. *Be it enacted, etc.,* That Wm. W. Miller, Geo. A. Barnes, Chas. E. Williams, Joseph Cushman, Clanrick Crosby, Joseph Bontard, Andrew J. Chambers, their associates, successors and assigns, be and they hereby are made a corporation by the name of the Washington Woolen Manufacturing Company, and by that name may sue and be sued, prosecute and defend to final judgment and execution, and shall be and hereby are invested with all the powers and privileges and are made subject to all the liabilities incident to corporations of a similar nature.

§ 2. **Purpose — Incidental Powers.**—SEC. 2. That said corporation be and hereby is empowered to establish, manage and prosecute the business of manufacturing blankets, cloths or any other woolen fabric, and such other branches of manufacture as may be necessarily connected therewith, in the county of Thurston, and for that purpose may purchase, hold and convey real and personal estate: *Provided*, The same do not at any time exceed in value the sum of fifty thousand dollars: *And provided also*, The capital stock thereof shall be divided into shares of \$100 each: *And provided further*, That neither the before named corporators or the stockholders in the Washington Woolen Manufacturing Company shall be at any time individually liable for the debts of said corporation or company.

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<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 144.) In effect from date.

## CHAPTER XC.—WEST OLYMPIA WHARF COMPANY.

### No. 915.—AN ACT TO INCORPORATE THE WEST OLYMPIA WHARF COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name — Purpose.**—*Be it enacted, etc.,* That B. F. Brown, G. W. French, Silas E. Dennis, Ira Ward and E. Montgomery, and all other persons who shall become associated with them by subscribing stock, their assigns and successors, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the "West Olympia Wharf Company," for the purpose of constructing and

<sup>1</sup> Passed Jan. 24, 1861. (See Eighth Reg. Sess. 1860-61, p. 120.) In effect from date.

maintaining a wharf or wharves, as the case may be, for all the uses and intents that wharves are used for.

§ 2. **General Powers.**—SEC. 2. Said company may own and possess any amount of stock and property of any description whatever, real, personal or mixed, necessary to carry on its business, which they may purchase or possess, sell and dispose of at pleasure; may sue and be sued in any court of competent jurisdiction; may have and use a common seal which they may alter, break and renew at pleasure; may appoint one or more agents for the transaction of their business, whom they may dismiss and change at pleasure, and may, from time to time, make such rules, regulations and by-laws as they may deem necessary or useful, and the same amend and change at pleasure, subject, however, to the constitution and laws of the United States and the laws of this Territory.

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## CHAPTER XCI.—WHATCOM COAL MINING COMPANY.

### No. 916.—AN ACT TO INCORPORATE THE WHATCOM COAL MINING COMPANY.<sup>1</sup>

§ 1. **Incorporators — Name — Purpose.**—SECTION 1. *Be it enacted, etc.,* That William Utter, his associates, heirs and assigns, be and they are hereby constituted and declared a body corporate and politic, by the name and style of the Whatcom Coal Mining Company. The object of this corporation shall be to open and work a coal vein situate on the donation land claim or other lands of the said Wm. Utter, said land claims being near tide water on Bellingham Bay, Whatcom county, Washington Territory.

§ 2. **General Powers.**—SEC. 2. The said corporation is hereby empowered and authorized to have, receive, purchase, possess, enjoy and retain lands, tenements, goods and chattels of any kind and to any amount which said corporation may deem expedient, after organizing under this act, not exceeding five hundred thousand dollars, to carry into effect the objects of said corporation, and the same to use, alien, sell and dispose of; to sue and be sued in any courts having competent jurisdiction; to have a common seal and to ordain and establish such rules, regulations and by-laws as may be necessary for the successful prosecution of the objects of said corporation after organizing under this act.

§ 3. **Right-of-Way for Railroads, etc.: How Secured — Damages for.**—SEC. 3. That in the prosecution of the objects of said corporation, power is hereby conferred to build a railroad from where said coal mine is opened on the said lands as before described to tide water on Bellingham Bay, by the most convenient and economical route; and at the junction of said railroad with tide water at Bellingham Bay, to construct a wharf to deep water, by the most convenient, economical and direct route to accommodate shipping. Should the said corporation fail to secure the right-of-way from any person, persons or corporation over whose land said railroad may pass, or wharf be erected upon, or disagree as to the price to be paid to such person, persons or corporations for the right-of-way and occupancy of land for building said railroad and wharf, and for all necessary buildings and other purposes connected with the opening and developing of said coal mine, and for the successful working of the same.

<sup>1</sup> Passed Jan. 6, 1864. (See Eleventh Reg. Sess. 1863-64, p. 138.)

then the said corporation may notify such person or persons or corporation, or their agent or agents, which shall be deemed sufficient, to appear before some judge of the district court within the district where said coal mine is situate, at a time specified in said notice, which shall not be more than fifteen nor less than ten days from the date of the service of said notice, at which time the judge shall require the parties to select each one person to act as arbitrators in the matter, and the said arbitrators shall select a third; or if either party fail to select, then the said judge shall himself select, which arbitrators shall possess the qualifications of jurors, shall be governed, so far as applicable, by the laws in relation to other arbitrators, shall hear and determine the case, and their award shall be final, but may be impeached for fraud, on complaint filed by the aggrieved party before the judge of the district court. Said notice of appeal must be filed in the proper court within ten days, which shall set forth under oath the grounds upon which said appeal is taken, and the leading facts constituting the grievance. The said corporation, upon paying the award of the said arbitrators, shall be entitled to enter upon and improve and use the land required for the objects aforesaid of the said corporation.

§ 4. **Limitation of Privileges, etc.**—SEC. 4. The said corporation shall have five years from the passage of this act for the completion of the objects contemplated in this act, and shall have and hold all the rights and privileges granted in this act for the term of twenty years from its passage.

§ 5. **Forfeiture Clause.**—SEC. 5. The failure of the said corporation to comply with the conditions hereinbefore specified will render void the provisions of this act.

§ 6. **Date in Effect, etc.**—SEC. 6. This act to take effect and be in force from and after its passage: *Provided*, That the said corporation shall, within six months from the passage of this act, proceed to organize said company and commence work.

## CHAPTER XCII.—WHITMAN SEMINARY.

### No. 917.—AN ACT TO ESTABLISH AN INSTITUTION OF LEARNING IN WALLA WALLA COUNTY.<sup>1</sup>

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted, etc.*, That there shall be established in Walla Walla county an institution of learning for the instruction of persons of both sexes in science and literature, to be called the "Whitman Seminary;" and that Elkanah Walker, George H. Atkinson, Elisha S. Tanner, Erastus S. Joslyn, W. A. Tenney, H. H. Spalding, John C. Smith, James Craigie and Cushing Ells and their successors are hereby declared to be a body politic and corporate in law, by the name and style of the President and Trustees of Whitman Seminary.

§ 2. **General Powers.**—SEC. 2. That the corporation before named shall have perpetual succession, and power to acquire, possess and hold property, real, personal and mixed, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure; and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of justice, both at law and equity; they shall have and use a common seal, with power to alter it at pleasure; and they may exercise

<sup>1</sup> Passed Dec. 20, 1859. (See Seventh Reg. Sess. 1859-60, p. 422.) In effect from date.



all the powers and enjoy all the privileges of other institutions of learning in this Territory.

§ 3. **Board of Trustees.**—SEC. 3. That the corporate concerns of said Whitman Seminary shall be managed by themselves as a board, consisting of the nine members, and that a majority of the members of the board shall constitute a quorum for the transaction of business; said trustees shall elect one of their number to be president of their board, and they shall have power to fill all vacancies in their body, as these may from time to time occur, by resignation, expulsion, death or otherwise, and shall have power to make and put in force such by-laws and regulations as shall from time to time be deemed necessary for the government of said corporation.

§ 4. **Powers of Board.**—SEC. 4. That the board of trustees shall have power to appoint subordinate officers and agents, and to make, ordain and establish such ordinances, rules and regulations as they may deem necessary for the good government of said institution, its officers, teachers and pupils, and for the management of the affairs of said corporation to the best advantage: *Provided*, That they shall not contravene the constitution or laws of the United States or the laws of this Territory.

§ 5. **Execution of Deeds, etc.**—SEC. 5. That all deeds and other instruments of conveyance shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president, and by him acknowledged in his official capacity in order to insure their validity.

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**No. 918.—AN ACT TO AMEND AN ACT ENTITLED AN "ACT TO ESTABLISH AN INSTITUTION OF LEARNING IN WALLA WALLA COUNTY," PASSED DECEMBER 20, 1858.<sup>1</sup>**

§ 1. **Incorporators—Name.**—SECTION 1. *Be it enacted etc.* That the above named act to establish an institution of learning in Walla Walla county, passed December 20, 1859, be and the same is hereby so amended that section first shall read as follows: That there shall be established in Walla Walla county an institution of learning for the instruction of both sexes in literature, science and art, to be called Whitman College, and that Elkanah Walker, George H. Atkinson, Elisha S. Tanner, Erastus S. Joslyn, W. A. Tenny, H. H. Spaulding, John C. Smith, James Craigie and Cushing Eells and their successors are hereby declared to be a body politic and corporate in law, by the name and style of the Board of Trustees of Whitman College.

§ 2. **General Powers.**—SEC. 2. That section second of said act shall be amended so as to read as follows: That the corporation before named shall have perpetual succession, and shall have power to acquire by purchase, donation, devise or otherwise, and possess and hold property, real, personal and mixed, and the same to sell, grant, convey, rent or otherwise dispose of at pleasure, and they shall have power to contract and be contracted with, sue and be sued, plead and be impleaded, in all courts of justice, both at law and equity; they shall have and use a common seal, with power to alter it at pleasure, and they may exercise all the powers and enjoy all the privileges of other institutions of learning in this Territory.

§ 3. **Board of Trustees.**—SEC. 3. That section third of said act shall be amended to read as follows: That the corporate concerns of said Whitman College shall be managed by the trustees themselves as a board, consisting of the nine members, and that a majority of the members of the

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<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 399.) In effect from date. The title should read "1859" instead of "1858." See No. 917, *supra*.

board shall constitute a quorum for the transaction of business; said trustees shall elect one of their number to be president of their board, and they shall have power to fill all vacancies in their body as there may from time to time occur, by resignation expulsion death or otherwise, and shall have power to make and put in force such by-laws and regulations as shall from time to time be deemed necessary for the government of said corporation.

\* \* \* \* \*

§ 4. **Execution of Deeds, etc.**—SEC. 5. That section fifth shall be amended so as to read as follows: That all deeds and instruments of conveyance shall be made by order of the board of trustees, sealed with the seal of the corporation, signed by the president and secretary of the board, and by them acknowledged in their official capacity in order to insure the validity of said deeds and instruments.

§ 5. **Exemption From Taxation.**—SEC. 6. That section six of said act be amended to read as follows: That the property of said board of trustees of Whitman College, including all income and proceeds, shall be used exclusively for the purposes of education, and in consideration of said use, said property, income and proceeds shall not be subject to taxation.

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## TITLE III.—COUNTIES.

## CHAPTER I.—ADAMS COUNTY.

No. 919.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF ADAMS.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That Adams county shall be and consist of all that territory of Whitman county, bounded as follows, to wit: Beginning at the northwest corner of township 14 north, range 28 east, of the Willamette meridian; running thence north to the 4th standard parallel; thence east to the Columbia river guide meridian; thence north to the 5th standard parallel; thence east on said parallel to the line between the ranges 38 and 39; thence south on said line to where it intersects the Palouse river in township 16; thence down said river to where the line between townships 14 and 15 crosses said river; thence west on said line to place of beginning.

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§ 2. **Taxes, 1883.**—SEC. 5. That the taxes levied and assessed for the year 1883 on the persons and property within the boundaries of Adams county, as herein described, shall be collected and paid to the treasurer of Whitman county, and after the indebtedness of said county has been settled, the treasurer of Whitman county, upon demand of the treasurer of Adams county, shall pay to him the *pro rata* share of said Adams county of the money remaining on hand, on the first Monday in May, 1884, from said taxes actually collected for the year 1883: *Provided, Said demand shall not be made before the first Monday of May, 1884: And provided further,* That said Adams county shall receive no part of the property of Whitman county: *Provided, Nothing in this act shall exclude Adams county from its just proportion of its school money.*

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§ 3. **Attached to Spokane for Judicial Purposes.**—SEC. 8. The county of Adams shall be attached to Spokane county for judicial purposes.

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<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Blen. Sess. 1883, p. 98.) In effect from date.

## CHAPTER II.—COUNTY OF ASOTIN.

No. 920.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF ASOTIN.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Garfield county situated within Washington Territory, and included within the following limits, be and the same shall be constituted and known as the county of Asotin, viz.: Commencing at a point in the channel of Snake river on the township line between ranges forty-four (44) and forty-five (45); thence running south to the northwest corner of section thirty (30), township (11) north, range forty-five (45) east, of the

<sup>1</sup> Approved Oct. 27, 1883. (See Ninth Blen. Sess. 1883, p. 96.) All conflicting acts and parts of acts repealed. In effect from date.

Willamette meridian; thence west six (6) miles; south one (1) mile; west two (2) miles; south one (1) mile; west one (1) mile to the northwest corner of section three (3) in township ten (10) north, of range forty-three (43) east, of the Willamette meridian; thence south eighteen (18) miles; thence west three (3) miles; thence south to the Oregon line; thence east on said line to the mid-channel of Snake river; thence down the mid-channel of Snake river to the place of beginning.

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§ 2. **Judicial, etc., Purposes.**—SEC. 4. That the county of Asotin is hereby united to the county of Garfield for judicial and legislative purposes.

§ 3. **What Laws Govern.**—SEC. 5. That all the laws applicable to the county of Garfield shall be applicable to the county of Asotin.

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§ 4. **Taxes, 1883.**—SEC. 7. That all the taxes levied and assessed by the board of county commissioners of the county of Garfield for the year 1883 upon persons or property within the boundaries of the said county of Asotin shall be collected and paid into the treasury of said Garfield county for the use of said county of Garfield: *Provided, however,* That the said county of Garfield shall pay all the just indebtedness of said Garfield county, and that when such indebtedness shall be wholly paid and discharged, all moneys remaining in the treasury of said Garfield county, and all credits due, and to become due, said county of Garfield on the assessment roll of said year, shall be divided between said counties of Garfield and Asotin, according to the usual valuation of said property of the said year: *Provided, further,* That nothing in this act shall be so construed as to deprive the county of Asotin of its proportion of the tax levied for common school purposes for the above named year.

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**No. 921.—AN ACT TO CREATE A DISTRICT COURT FOR THE COUNTY OF ASOTIN AND DEFINING THE JURISDICTION THEREOF.<sup>1</sup>**

§ 1. **Name.**—*Be it enacted, etc.* SECTION 1. That a court be and the same is hereby created and established within the county of Asotin, to be called and known as the district court of Asotin county.

§ 2. **Jurisdiction.**—SEC. 2. That the said district court shall have jurisdiction within said county of all matters, actions and causes, except those in which the United States shall be a party, in the same manner and to the same extent as other district courts in the first judicial district have, and all proceedings therein shall be governed by and subject to the same laws, rules and regulations in all respects as other district courts in said district.

§ 3. **Clerk.**—SEC. 3. That the said district court shall be held by the judge of the first judicial district and said judge shall appoint a clerk of said court, who shall, before entering upon the duties of such office, take and subscribe an oath to faithfully discharge the same, and shall give a bond or other security in such sum and manner as the judge of said court may direct, and shall keep his office at the county seat of said county.

§ 4. **Terms.**—SEC. 4. The regular term of said court shall be held at the county seat of said county on the first Monday in April and the third Monday in October in each year, and shall hold until the business of the term is transacted, unless sooner adjourned.

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<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Blen. Sess. 1886, p. 64.) All conflicting acts and parts of acts repealed. In effect from date.

## CHAPTER III.—CHEHALIS COUNTY.†

No. 922.—AN ACT TO CREATE THE COUNTY OF CHEHALIS.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Thurston county embraced within the following named boundaries, to wit, commencing at the northwest corner of Pacific county, on Shoalwater Bay; thence due east to a point due south of a point on the Chehalis river six miles above Armstrong's mills; thence north to the line of Sawamish county, thence west along said line of Sawamish county to the Pacific Ocean; thence south along the coast of Pacific Ocean and Shoalwater Bay to the place of beginning, be and the same is hereby constituted and organized into a separate county, to be known and called Chehalis county.

§ 2. **Powers, etc.**—SEC. 2. That all the territory embraced within said boundaries shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in the Territory of Washington, and entitled to elect the same officers as other counties are entitled to elect.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 472.)

† See also No. 1031, *infra*, § 18, and No. 1032, § 5.

No. 923.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE JUDICIAL DISTRICTS OF WASHINGTON TERRITORY."<sup>1</sup>

§ 1. **Attached to First District.**—SECTION 1. *Be it enacted, etc.,* That Chehalis county is hereby detached from the second judicial district and attached to the first judicial district for judicial purposes.

§ 2. **Terms.**—SEC. 2. And it is hereby made the duty of the judge of the first judicial district to hold courts regularly in the said county of Chehalis on the Monday after he holds courts in Pacific county.

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<sup>1</sup> Passed Feb. 1, 1855. (See Second Reg. Sess. 1854-55, p. 82.) See also No. 478, *supra*. All conflicting laws repealed.

No. 924.—AN ACT DEFINING THE BOUNDARIES OF CHEHALIS COUNTY.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the boundaries of Chehalis county be and the same are hereby defined as follows: Beginning at the ocean beach at the corner for sections nineteen and thirty, township fifteen north, range eleven west, of the Willamette meridian; thence east on said section line to the northeast corner of Pacific county; thence south on the east boundary line of Pacific county twelve miles to the section line between nineteen and thirty, township thirteen north, range seven west; then east on said section line to corner for sections twenty-two, twenty-three, twenty-six and twenty-seven, township thirteen north, range four west; then north on section line between sections twenty-two and twenty-three to corner to sections thirty-four, thirty-five, two and three, on township line between townships eighteen and nineteen north; then west on township line between townships eighteen and nineteen, to the corner to townships eighteen and nineteen north, ranges six and seven west; then north on range line between ranges six and seven

<sup>1</sup> Passed Jan. 25, 1860. (See Seventh Reg. Sess. 1859-60, p. 444.)



to the fifth standard parallel; then west on said parallel to the ocean; then southerly with the ocean beach to the place of beginning.

§ 2. **Apportionment—Property, etc.**—SEC. 2. That the present board of county commissioners and treasurer of Chehalis county are hereby ordered that in consequence of a division of Chehalis county, by the establishment of the above named boundaries, they shall hold a meeting on the 20th day of March, 1860, at the town of Bruceport, Chehalis county, for the apportionment of all moneys, rights, credits, personal property and real estate of which Chehalis county shall have been legally possessed.

§ 3. **Date in Effect.**—SEC. 3. This act to take effect on the first day of April, 1860.

**No. 925.—AN ACT TO DEFINE THE NORTHERN BOUNDARY OF CHEHALIS COUNTY.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.,* That all that part of Mason county<sup>2</sup> lying west of range seven (7) be and the same is hereby attached to Chehalis county for judicial and military purposes.

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<sup>1</sup> Passed Jan. 30, 1864. (See Eleventh Reg. Sess. 1863-64, p. 74.)

<sup>2</sup> See Nos. 961 to 968, *infra*.

**No. 926.—AN ACT TO CREATE A DISTRICT COURT FOR THE COUNTY OF CHEHALIS AND DEFINING THE JURISDICTION THEREOF.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.,* That a court be and the same is hereby created and established within the county of Chehalis, to be called and known as the district court of Chehalis county.

§ 2. **Jurisdiction.**—SEC. 2. That the said district court shall have jurisdiction within said county of all matters, actions and causes, except those in which the United States shall be a party, in the same manner and to the same extent as other district courts in the second judicial district have, and all proceedings therein shall be governed and subject to the same laws, rules and regulations in all respects as other district courts in said district are.

§ 3. **Clerk.**—SEC. 3. That the said district court shall be held by the judge of the second judicial district, and said judge shall appoint a clerk of said court, who shall, before entering upon the duties of said office, take and subscribe an oath to faithfully discharge the same, and shall give a bond or other security in such sum as the judge of said court may direct, and shall keep his office at the county seat of said county.

§ 4. **Terms.**—SEC. 4. The regular term of said court shall be held at Montesano, the county seat of the said county, commencing on the first Monday in September in each year, and shall hold until the business of the term is transacted, unless sooner adjourned by the court.

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<sup>1</sup> Approved Nov. 23, 1883. (See Ninth Blen. Sess. 1883, p. 48.) In effect from date.

## CHAPTER IV.—CLALLAM COUNTY.†

No. 927.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF CLALLAM.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of Jefferson county embraced within the following boundaries, to wit, commencing on the south side of the Straits of Juan de Fuca, at a point in line as near as may be between Port Townsend and Port Discovery, so as to divide the peninsula between said places as near equally as possible; thence due south to the summit of the Olympic range of mountains; thence following said range northwesterly to the sea coast; thence following up the sea coast northerly to Cape Flattery, and to the Straits of Juan de Fuca; thence easterly along the coast to the place of beginning, is hereby constituted and organized into a separate county, to be known and called Clallam county.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 472.)

† See also No. 1031, *infra*, § 6, and No. 1032, Note 1.

## CHAPTER V.—CLARKE COUNTY.†

No. 928.—AN ACT TO DEFINE THE NORTHERN BOUNDARY OF CLARKE COUNTY.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the northern line of the county of Clarke be and the same is hereby defined as follows: Commencing on Columbia river, on the south bank of Kalama at its mouth, running due east six miles east of meridian line; thence due north to second standard parallel; thence due east to the western line of Skamania county.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 473.)

† See No. 935, *infra*. See also No. 1031, § 14, *infra*, and No. 1032, Note 1.

No. 929.—AN ACT TO AMEND AN ACT "TO DEFINE THE NORTHERN BOUNDARY OF CLARKE COUNTY."<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That the northern boundary line of Clarke county be so changed as to make it on the township line, between town ten and eleven north, and that the east and west boundary lines be so extended as to meet it, anything in the act to which this is amendatory to the contrary notwithstanding.

<sup>1</sup> Passed Jan. 23, 1855. (See Second Reg. Sess. 1854-55, p. 39.)

No. 930.—AN ACT TO CHANGE THE BOUNDARIES OF CLARKE COUNTY.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the north boundary line of Clarke county, Washington Territory, be so changed

<sup>1</sup> Approved Nov. 14, 1873. (See Fourth Blen. Sess. 1873, p. 561.) All conflicting acts or parts of acts repealed. In effect from date.

as to run as follows: To commence at the Columbia river opposite the mouth of Lewis river, thence up Lewis river to the forks of said river; thence up the north fork of Lewis river to where said north fork of Lewis river intersects the east boundary line of said Clark county.

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## CHAPTER VI.—COLUMBIA COUNTY.†

### No. 931.—AN ACT TO ORGANIZE THE COUNTY OF COLUMBIA IN WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Boundaries—Taxes, 1875.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Walla Walla county included within Washington Territory, and included within the following limits, be and the same is hereby known as the county of Columbia, viz.: Commencing at a point in the middle of the channel of Snake river, where the range line between ranges thirty-six (36) and thirty-seven (37) east of the Willamette meridian intersects said point; thence south on said range line to the northwest corner of township number nine (9) north, range thirty-seven (37) east; thence east on the north boundary line of township number nine (9) north, range thirty-seven (37) east, to the northeast corner of said township; thence south on the line between ranges thirty-seven (37) and thirty-eight (38) east of the Willamette meridian, to the northeast corner of township number seven (7) north, range thirty-seven (37) east, thence along the north boundary line of township number seven (7) north, range thirty-eight (38) east, to the northeast corner of said township; thence due south to the line dividing the Territory of Washington from the State of Oregon; thence due east on said dividing line to the dividing line between the Territory of Washington and Idaho; thence due north to a point where the dividing line between the Territories of Washington and Idaho intersects the middle channel of Snake river; thence down the middle channel of Snake river to the point of beginning: *Provided*, That all taxes levied and assessed by the board of county commissioners of Walla Walla county, for the year 1875, upon persons or property within the boundaries of the said county of Columbia, shall be collected and paid into the treasury of Walla Walla county, for the use of said county of Walla Walla: *Provided, however*, That nothing in this act shall be so construed as to deprive the county of Columbia of its proportion of the tax levied for common school purposes for the above named year: *And provided further*, That the county of Columbia shall not be liable for any of the indebtedness of the county of Walla Walla, nor entitled to any portion of the property of said county of Walla Walla.

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§ 2. **Judicial Powers.**—SEC. 5. The county of Columbia is hereby united to the county of Walla Walla for judicial purposes.

§ 3. **What Laws in Force.**—SEC. 6. That all laws of a general nature applicable to the county of Walla Walla shall be applicable to the county of Columbia.

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<sup>1</sup> Approved Nov. 11, 1875. (See Fifth Blen. Sess. 1875, p. 133.) See also Nos. 1013 to 1017, *infra*. All conflicting acts and parts of acts repealed. In effect from date.

**No. 932.—AN ACT CREATING AND CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF COLUMBIA.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and the same is hereby created and established within and for the county of Columbia, to be called the District Court of Columbia county.

§ 2. **Jurisdiction.**—SEC. 2. That said district court shall have exclusive jurisdiction within said county of all matters and causes except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the First judicial district holding terms at Walla Walla city for the counties of Columbia and Walla Walla, with the same right of appeal, *certiorari* and writs of error to the supreme court as is now provided and allowed by law.

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§ 3. **Clerk.**—SEC. 4. The said judge of the First judicial district shall appoint a clerk of said district court of Columbia county \* \* \*

\* \* \* \* \*

§ 4. **Practice.**—SEC. 6. The various laws now in force and which may hereafter be enacted regulating the practice and proceedings in civil actions and criminal prosecutions in Territorial causes shall govern the practice and proceedings in said district court of Columbia county except as herein otherwise provided.

§ 5. **Terms.**—SEC. 7. The regular terms of said district court of Columbia county shall be held on the third Monday in June and the second Monday in December in each and every year, and each term shall be held for one week unless sooner adjourned: *Provided*, That no term of said court shall be held until the last Monday in June, A. D. 1878.

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<sup>1</sup> Approved Oct. 27, 1877. (See Sixth Bien. Sess. 1877, p. 362.) Section 12 of this act does not appear in this No. because it is *verbatim* as § 4 of this No. except the words, "except as herein otherwise provided" are omitted. All conflicting acts and parts of acts repealed. In effect from date.

**CHAPTER VII.—COWLITZ COUNTY.†**

**No. 933.—AN ACT TO CREATE COWLITZ COUNTY, AND DEFINE ITS BOUNDARIES.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all the territory in the following described boundaries shall form a new county, to be called Cowlitz county, viz.: Beginning at the southeast corner of Pacific county, on the Columbia river, thence up said river to the south bank of the Kalama; thence east to the first range line east of the meridian; thence north along said line to the east fork of the Cowlitz river; thence westerly, following the said east fork of said river to the point where it intersects with the west fork; thence due west to the dividing ridge dividing the waters of Chehalis and Columbia rivers; thence along said ridge to the western line of Pacific county; thence to the place of beginning, on the line of Pacific county at the Columbia river.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 471.)

†See also No. 1031, *infra*, § 15; and No. 1032, Note 1.

**No. 934.—AN ACT TO AMEND AN ACT ENTITLED “AN ACT TO CREATE COWLITZ COUNTY AND DEFINE ITS BOUNDARIES.”<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that part of said act defining the northern boundary of Cowlitz county be repealed, and that the eastern boundary line be extended north till it intersects the northeast corner of township number ten north, range one east; thence west along the north line of town ten till it arrives at a point due north of the second section line west of the west line of Alexander Abernethy’s land claim on the Columbia river; thence south to the Columbia river.

<sup>1</sup> Passed Jan. 26, 1855. (See Second Reg. Sess. 1854–55, p. 36.)

**No. 935.—AN ACT CONFERRING CERTAIN POWERS ON COUNTY COMMISSIONERS’ COURTS OF COWLITZ COUNTY.<sup>1</sup>**

§ 1. **Opening Streets, etc.—Easements.**—SECTION 1. *Be it enacted, etc.*, That the county commissioners’ court of the county of Cowlitz, may, upon the petition of the owner or owners of any block or blocks in the town of Freeport, in the county of Cowlitz, authorize the owner or owners of said blocks to postpone the opening of the streets of any part of said town of Freeport without vacating the plat of said town, where it will not interfere with the ingress or egress of parties owning or holding in possession the same, so as to compel them to pass over lands owned or occupied by others; but when necessity shall exist, it shall be their duty, and they are hereby empowered, to order any or all of said streets to be opened.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 24, 1866. (See Thirteenth Reg. Sess. 1865–66, p. 140.) In effect from date.

**No. 936.—AN ACT TO CHANGE THE BOUNDARIES OF COWLITZ AND CLARKE COUNTIES.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the boundaries of Cowlitz county be so changed as to commence at the Columbia river opposite the mouth of Lewis river; thence up Lewis river to the section line between sections two and eleven of township four north, one west; thence on said line to the Willamette meridian; thence north on said meridian to Lewis river; thence up said river to its forks, and up north fork of Lewis river to the intersection of section line between sections nineteen and thirty, in township five north, one east; thence east on said section line to the township line between townships four and five east; thence north to the line between townships ten and eleven north; thence west to the first section line east of the township line between townships four and five west; thence south on said line to the Columbia river, and up Columbia river to the place of beginning.

\* \* \* \* \*

§ 2. **Apportionment of Indebtedness.**—SEC. 3. The county commissioners of Cowlitz county at their regular session in May, 1872, shall ascertain the amount of indebtedness of the county at the time of the passage of this act, and if the amount of taxes collected from the assessment of the year 1871 is not sufficient to pay all such debt, they shall be required to levy a special tax on the property assessed for 1872 within the boundary of the county before the passage of this act, to pay such indebtedness, in addition to the amount estimated for the expenses of the county

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 153.) In effect from date.



for that year, and they shall, at the same session, be authorized and required to levy a special tax on the property of all that portion of the county taken by this act from Clarke county, sufficient to pay the amount which shall be determined upon as aforesaid, in addition to the amount estimated for the expenses of the county for the year 1872: *Provided*, That if said special tax shall exceed five mills on the dollar on the property assessed for that year, then the commissioners shall be required to assess a tax not exceeding five mills on the dollar in each year thereafter until it is paid.

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## CHAPTER VIII.—DOUGLAS COUNTY.

### No. 937.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF DOUGLAS.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of the county of Lincoln described as follows, to wit, beginning at the point where the Columbia guide meridian intersects the Columbia river on the northern boundary of Lincoln county; and thence running south on said Columbia guide meridian to the township line between townships number sixteen and seventeen; thence running west on said township line to the range line between ranges twenty-seven and twenty-eight; thence south on said range line to the section line between sections 24 and 25 in township 14 north, range 27 east; thence west on said section line to the mid-channel of the Columbia river; thence up said channel of said river to the place of beginning, shall be known and designated as the county of Douglas.

\* \* \* \* \*

§ 2. **Judicial, etc., Purposes.**—SEC. 5. The county of Douglas shall be attached to the county of Lincoln for legislative and judicial purposes until otherwise provided by law.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 28, 1888. (See Ninth Blen. Sess. 1883, p. 95.) All conflicting acts and parts of acts repealed. In effect from date.

### No. 938.—AN ACT TO CREATE A DISTRICT COURT OF THE COUNTY OF DOUGLAS, AND DEFINING THE JURISDICTION THEREOF.<sup>1</sup>

§ 1. **Name.**—*Be it enacted, etc.* SECTION 1. That a court be and the same is hereby created and established within the county of Douglas, to be called and known as the District Court of Douglas county.

§ 2. **Jurisdiction.**—SEC. 2. That the said district court shall have jurisdiction within said county of all matters, actions and causes, except those in which the United States shall be a party, in the same manner and to the same extent as other district courts in the Fourth judicial district have, and all proceedings therein shall be governed by and subject to the same laws, rules and regulations, in all respects, as other district courts in said district.

§ 3. **Clerk.**—SEC. 3. That the said district court shall be held by the judge of the fourth judicial district, and said judge shall appoint a clerk

<sup>1</sup> Approved Jan. 28, 1888. (See Eleventh Blen. Sess. 1887-88, p. 79.)

of said court, who shall, before entering upon the duties of such office, take and subscribe an oath to faithfully discharge the same, and shall give a bond or other security, in such sum and manner as the judge of said court may direct, and shall keep his office at the county seat of said county.

§ 4. **Terms.**—SEC. 4. The regular terms of said court shall be held at Waterville, the county seat of said county, on the second Monday of September in each year, and shall hold until the business of the term is transacted, unless sooner adjourned by the court.

## CHAPTER IX.—FERGUSON COUNTY.†

† See "Yakima county," Nos. 1026 to 1030, *infra*.

## CHAPTER X.—FRANKLIN COUNTY.

### No. 939.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF FRANKLIN.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That Franklin county shall be and consist of all that territory of Whitman county bounded as follows, to wit: Beginning at a point where the mid-channel of the Snake river intersects that of the Columbia river and running thence up the Columbia river to a point where section line between sections 21 and 28, township 14 north, range 27 east, Willamette meridian, Washington Territory, strikes the main body of the Columbia river on the west side of the island; thence east on said section line to township line between ranges 27 and 28 east; thence north on said range line to north boundary of township 14; thence east on said north boundary of township 14 to the Palouse river; thence down said river to the mid-channel of Snake river; thence down said Snake river to place of beginning.

\* \* \* \* \*

§ 2. **Taxes, 1883.**—SEC. 5. That all taxes levied and collected for the year 1883, on the persons and property within the boundaries of Franklin county as herein described, shall be collected and paid to the treasury of Whitman county; the said county of Franklin to receive no part nor parcel thereof; nor shall the county of Franklin receive any part of the property of Whitman county: *Provided*, That nothing in this act shall deprive the county of Franklin of its just proportion of the school money.

\* \* \* \* \*

§ 3. **Pending Suits.**—SEC. 7. That all suits that have been commenced and are now pending in which Whitman county is a party, shall continue to be prosecuted or defended by said Whitman county; said Franklin county shall not be liable for any judgments or costs, nor receive any benefits or emoluments from any such suit or suits.

§ 4. **Judicial Purposes.**—SEC. 8. The county of Franklin is hereby attached to Walla Walla for judicial purposes.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Blen. Sess. 1883, p. 87.) In effect from date.

## CHAPTER XI.—GARFIELD COUNTY.

**No. 940.—AN ACT TO ORGANIZE THE COUNTY OF GARFIELD.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc..* That all that portion of Columbia county situated within Washington Territory and included within the following limits, be and the same shall be known as the county of Garfield, in honor of James A. Garfield, late president of the United States, viz.: Commencing at a point in the mid-channel of Snake river on township line between range 39 and 40; thence on said line south to the southwest corner of township twelve (12), range forty (40); thence east on township line six (6) miles; thence south to the southwest corner of section seven (7), township eleven (11) north, of range forty-one (41) east; thence east one mile; thence south three (3) miles; thence east one (1) mile; thence south one (1) mile; thence east one mile; thence south three (3) miles; thence east three (3) miles; thence south on township line to the Oregon line; thence due east on said line to the division line between the Territory of Washington and Idaho; thence north on said dividing line to a point where it intersects the mid-channel of Snake river; thence down the said mid-channel of Snake river to the point of beginning.

\* \* \* \* \*

§ 2. **Judicial Purposes.**—SEC. 5. The county of Garfield is hereby united to the county of Columbia for judicial purposes.

§ 3. **What Laws Govern.**—SEC. 6. That all laws applicable to the county of Columbia shall be applicable to the county of Garfield.

§ 4. **Taxes, 1881.**—SEC. 7. That all taxes levied and assessed by the board of county commissioners of the county of Columbia for the year A. D. 1881, upon persons or property within the boundaries of the said county of Garfield shall be collected and paid into the treasury of said Columbia county for the use of said county of Columbia: *Provided, however,* That the said county of Columbia shall pay all the just indebtedness of said Columbia county, and that when such indebtedness shall be wholly paid and discharged all moneys remaining in the treasury of said Columbia county, and all credits due and to become due said county of Columbia on the assessment roll of said year shall be divided between said counties of Columbia and Garfield, according to the assessed valuation of said property of the said year: *Provided further,* That nothing in this act be so construed as to deprive the county of Garfield of its proportion of the tax levied for common school purposes for the above named year.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1881. (See Eighth Bien. Special Sess. 1881, p. 175.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 941.—AN ACT TO CREATE A DISTRICT COURT FOR THE COUNTY OF GARFIELD, AND DEFINING THE JURISDICTION THEREOF.<sup>1</sup>**

§ 1. **Name.**—*Be it enacted, etc..* That a court be and the same is hereby created and established within the county of Garfield, to be called and known as the district court of Garfield county.

§ 2. **Jurisdiction.**—SEC. 2. That the said district court shall have jurisdiction within said county of all matters, actions and causes, except those in which the United States shall be a party, in the same manner, and to the same extent as other district courts in the First judicial district

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 47.) In effect from date.

have, and all proceedings therein shall be governed by and subject to the same laws, rules and regulations, in all respects, as other district courts in said districts are.

§ 3. **Clerk.**—SEC. 3. That the said district court shall be held by the judge of the first judicial district, and said judge shall appoint a clerk of said court, who shall, before entering upon the duties of such office, take and subscribe an oath to faithfully discharge the same, and shall give a bond or other security in such sum and manner as the judge of said court may direct, and shall keep his office at the county seat of said county.

§ 4. **Terms.**—SEC. 4. The regular terms of said court shall be held at the county seat of said county on the third Monday of August and the third Monday of February in each year, and shall hold until the business of the term is transacted, unless sooner adjourned by the court.

\* \* \* \* \*

## CHAPTER XII.—ISLAND COUNTY.†

### No. 942.—AN ACT DEFINING THE BOUNDARY LINES OF ISLAND COUNTY, WASHINGTON TERRITORY.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That the boundary lines of Island county, as defined by act approved January 31, 1867, entitled "An act defining county lines in the Territory of Washington,"<sup>2</sup> be extended till they meet the boundary lines of the surrounding counties on all sides, and the space so included shall hereafter constitute a part of Island county.

<sup>1</sup> Approved Jan. 21, 1868. (See First Bien. Sess. 1867-68, p. 68.)

<sup>2</sup> See No. 1031, *infra*.

† See also Nos. 987 and 1031, *infra*, § 8, and No. 1032, § 1.

### No. 943.—AN ACT DEFINING THE BOUNDARY BETWEEN THE COUNTY OF ISLAND AND THE COUNTIES OF SAN JUAN, WHATCOM AND SNOHOMISH.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. SEC. 2. The boundary line between the county of Island and the county of Whatcom shall be the center of the main or deepest channel beginning at the west entrance of Deception Pass and extending along said channel until it intersects the northwest or west boundary of Snohomish county.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 425.) All conflicting acts and parts of acts repealed. In effect from date.

## CHAPTER XIII.—JEFFERSON COUNTY.†

**No. 944.—AN ACT TO ESTABLISH AND DEFINE THE SOUTHEASTERN BOUNDARY OF JEFFERSON COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the southeastern boundary of the county of Jefferson in said Territory shall be as follows: Commencing at the Admiralty Inlet at a point where the eastern boundary line of King county runs through Pilot Cove; thence from said point in a westerly and straight line to the extreme upper point of Hood's Canal; thence down said channel to the northern boundary line of Sawamish county;<sup>2</sup> thence westerly along said line of Sawamish county to the Pacific coast, and all that portion of King county included in the above described boundaries shall be included in Jefferson county.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 470.)

<sup>2</sup> See No. 961, *infra*.

† See also No. 1031, *infra*, § 5, and No. 1032, Note 1.

**No. 945.—AN ACT ESTABLISHING THE WESTERN BOUNDARY OF JEFFERSON COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the northwestern boundary of Jefferson county, in said Territory, shall be as follows: Commencing at the present northwestern corner of the county of Jefferson; thence westerly along the Straits of Fuca to the north of Protection Island, to a point opposite the middle of the channel between Protection Island and Diamond Point, on the west of Port Discovery Bay; thence following up the middle of said channel to a point directly east of the mouth of Eagle creek; thence west to the mouth of Eagle creek; thence one mile west from the mouth of said creek; thence south to the summit of the Olympic range of mountains; thence west to the Pacific Ocean.

<sup>1</sup> Passed Feb. 1, 1858. (See Fifth Reg. Sess. 1857-58, p. 52.)

**No. 946.—AN ACT CONFERRING JURISDICTION ON THE DISTRICT COURT OF PORT TOWNSEND.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court is hereby established at Port Townsend, in the county of Jefferson, to be called the District Court of Port Townsend.

§ 2. **Jurisdiction.**—SEC. 2. Said court shall have exclusive jurisdiction within the counties of Whatcom, Clalam, Jefferson, Island and Snohomish of all matters and causes, except those in which the United States is a party or which are under exclusive jurisdiction of the United States courts, in the same manner and to the same extent as is now had and exercised by the district court of the Third judicial district, with the same rights as to appeals, *certiorari* and writs of error from inferior courts, and to the supreme court as is now or hereafter may be provided by law: *Provided*, Nothing herein contained shall be construed so as to prevent the holding of admiralty courts at Port Townsend for the said Third judicial district.

\* \* \* \* \*

§ 3. **Clerk.**—SEC. 4. The said district judge of the third judicial district, shall appoint a clerk of the court, \* \* \*

<sup>1</sup> Passed Jan. 20, 1862. (See Ninth Reg. Sess. 1861-62, p. 30.)



§ 4. **Practice.**—SEC. 5. The various laws now in force and which may hereafter be enacted or become in force regulating the practice and proceedings in civil actions and criminal prosecutions, shall govern the practice and proceedings in said district court of Port Townsend.

\* \* \* \* \*

§ 5. **Repealing Clause.**—SEC. 9. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 6. **Date in Effect.**—SEC. 10. This act shall take effect and be in force from and after the first day of April next, 1862.

**No. 946†.—AN ACT CONFERRING JURISDICTION ON THE DISTRICT COURT OF PORT TOWNSEND.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 12, Local Laws.) This No. is *verbatim* as No. 946, *supra*, except it is in effect from date.

CHAPTER XIV.—KING COUNTY.†

**No. 947.—AN ACT TO ESTABLISH THE SOUTHERN BOUNDARY OF KING COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the southern boundary of King county shall be as follows: From where the fifth standard parallel line strikes the main land near the head of Commencement Bay; thence east along said parallel line to the middle of the main channel of White river; thence up the middle of the main channel of White river to the forks of White river and Green Water; thence up the middle of the main channel of Green Water to the summit of the Cascade mountains.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 9, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 143.) All conflicting acts or parts of acts repealed. In effect from date.

† See No. 1031, *infra*, § 10, and No. 1032, Note 1.

CHAPTER XV.—KITSAP COUNTY.†

**No. 948.—AN ACT TO DEFINE THE SOUTHERN BOUNDARY LINE OF KITSAP COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the southern boundary line of Kitsap county shall commence in the middle of Colver's Passage, at a point opposite the meander post between sections 9 and 16 (on the west side of Colver's Passage), in township number 22, north of range number 2, east of the Willamette meridian (being a post at the foot of a bluff marked S. 9 and 16, T. 22, N. R. 2 E.; also an alder ten inches in diameter, marked S. 16, B. T., and a maple six inches in diameter marked S. 9, B. T.); thence

<sup>1</sup> Passed Jan. 13, 1858. (See Fifth Reg. Sess. 1857-58, p. 51.) All acts or parts of acts to which this is amendatory repealed.

† See No. 1031, § 9, *infra*, and No. 1032, § 2.

west on the north boundary line of sections 16, 17 and 18, to the west boundary of the township; thence west on the north boundary line of sections 13, 14, 15, 16, 17 and 18, in township 22, north of range 1, east; thence on the north boundary line of sections 13, 14, 15 and 16, to a point due south of the meander post between sections 8 and 9, in township 22, north of range 1, west; thence north between sections 8 and 9, 4 and 5, to the north boundary line of the township; thence west on the township line to the middle of the channel of Hood's Canal.

\* \* \* \* \*

**No. 949.—AN ACT TO CREATE A DISTRICT COURT FOR THE COUNTY OF KITSAP, AND TO DEFINE THE JURISDICTION THEREOF.<sup>1</sup>**

§ 1. **Name.**—*Be it enacted, etc.*, That a court be and the same hereby is created and established within the county of Kitsap, to be called and known as the District Court of Kitsap county.

§ 2. **Jurisdiction.**—SECTION 1. That the said district court shall have jurisdiction within said county to hear and determine all matters, actions and causes, excepting those in which the United States are a party, in the same manner and to the extent as other courts have in the third judicial district, and all proceedings therein shall be governed and be subject to the same laws, rules and regulations, in all respects, as other district courts in said district are.

§ 3. **Clerk.**—SEC. 2. That the said district court shall be held by the judge of the third judicial district and said judge shall appoint a clerk of court, \* \* \*

§ 4. **Terms.**—SEC. 3. The regular terms of said court shall be held at Port Madison, the county seat of said county, commencing on the third Monday of April and the Third Monday of November of each year, until the business of such term is transacted, unless sooner adjourned by the court.

\* \* \* \* \*

<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Blen. Sess. 1887-88, p. 80.) In effect from date.

**CHAPTER XVI.—KITITASS COUNTY.**

**No. 950.—AN ACT TO CREATE AND LOCATE THE COUNTY OF KITITASS, AND TO DEFINE THE BOUNDARIES THEREOF.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of Yakima county situated within Washington Territory and included within the following limits be and the same shall be known as the county of Kittitass, viz.: Commencing at a point where the main channel of the Columbia river crosses the township line between townships fourteen and fifteen north, range twenty-three east, Willamette meridian, and running west on said township to the range line between townships eighteen and nineteen east, thence north on said line six miles to the township line between townships fifteen and sixteen north; thence west on said township line to the Naches river; thence northerly along the main channel of said river to the summit of the Cascade mountains, or southwest corner of

<sup>1</sup> Approved Nov. 24, 1883. (See Ninth Blen. Sess. 1883, p. 90.) All conflicting acts or parts of acts repealed. In effect from date.

Pierce county; thence north along the eastern boundaries of Pierce, King and Snohomish counties to the main channel of the Wenatchee river; thence down said river to the Columbia river; thence down the main channel of the Columbia to the place of beginning.

\* \* \* \* \*

§ 2. **What Laws Govern.**—SEC. 5. That all laws applicable to the county of Yakima shall be applicable to the county of Kittitass.

§ 3. **Taxes, 1883.**—SEC. 6. That all taxes levied and assessed by the board of county commissioners of the county of Yakima for the year A. D. 1883, upon persons or property within the boundaries of the said county of Kittitass, and all delinquent taxes heretofore due said county of Yakima, shall be collected by its proper officers and paid into the treasury of said Yakima county, for the use of said county of Yakima: *Provided*, That the said county of Yakima shall pay all the just indebtedness of said Yakima county: *And provided further*, That the county of Kittitass shall pay to the county of Yakima a just proportion of the net indebtedness of said Yakima county, the same to be determined as hereinafter provided.

\* \* \* \* \*

**No. 951.—AN ACT CREATING AND CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF KITTITAS.**<sup>1</sup>

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and the same is hereby created and established within and for the county of Kittitas, to be called the district court of Kittitas county.

§ 2. **Jurisdiction.**—SEC. 2. That the district court shall have exclusive jurisdiction within said county of all matters and causes, except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the second judicial district, holding terms at Yakima city, for the county of Yakima, with the same right of appeal, *certiorari* and writs of error to the supreme court as is now provided and allowed by law.

\* \* \* \* \*

§ 3. **Clerk.**—SEC. 4. The said judge of the second judicial district shall appoint a clerk of said district court of Kittitas county, who shall give bonds and security in such amount as shall be ordered by the court or judge thereof, and shall keep his office and the records thereof at said county seat of Kittitas county.

§ 4. **Court of Record.**—SEC. 5. The district court of Kittitas county shall be a court of record, \* \* \*

\* \* \* \* \*

§ 5. **Practice.**—SEC. 10. The various laws now in force, and which may hereafter be enacted, regulating the practice and proceedings in civil actions and criminal prosecutions, in Territorial causes, shall govern the practice and proceedings in said district court of Kittitas county.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 26, 1883. (See Ninth Bien. Sess. 1883, p. 46.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 952.—AN ACT TO CHANGE THE BOUNDARY LINE BETWEEN KITTITAS AND YAKIMA COUNTIES.**<sup>1</sup>

§ 1. *Be it enacted, etc.* SECTION 1. That the boundary line between Kittitass and Yakima<sup>2</sup> counties, in Washington Territory, be and the same

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 168.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See Nos. 1026 to 1030, *infra*.

is hereby changed and shall hereafter be as follows, viz.: Commencing at a point where the main channel of the Columbia river crosses the township line between township fourteen (14) and fifteen (15) north, of range number twenty-three (23) east of the Willamette meridian, and running thence west on the said township line to the range line between ranges eighteen and nineteen east; thence north on said range line six miles, or to the township line between the townships fifteen (15) and sixteen (16) north; thence west on the said township line to the range line between ranges seventeen (17) and eighteen (18) east; thence north to the township line between townships sixteen (16) and seventeen (17) north; thence west along said township line and a line prolonged due west, to the Nachess river; and thence northerly along the main channel of the Nachess river to the summit of the Cascade mountains, or to the eastern boundary of Pierce county.

\* \* \* \* \*

#### CHAPTER XVII.—Klickitat County.†

##### No. 953.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF CLICATAT.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Washington Territory embraced within the following boundaries, to wit: Commencing in the middle of the Columbia river, five miles below the mouth of the Clicatat river; thence north to the summit of the mountains, the divide between the waters of the Clicatat and Yakima rivers; thence east along said divide to a point north of the mouth of Rock creek; thence south to the middle of the Columbia river; thence along the channel of said river to the place of beginning. The same is hereby constituted into a separate county, to be known and called Clicatat county.

§ 2. **Powers, etc.**—SEC. 2. The said territory shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in the Territory of Washington, and entitled to elect the same officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> Passed Dec. 20, 1859. (See Seventh Reg. Sess. 1859-60, p. 420.)

† See No. 1031, § 20, *infra*, and No. 1032, § 7.

##### No. 954.—AN ACT EXTENDING THE NORTHERN BOUNDARY OF CLICITAT COUNTY.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.,* That the northern boundary line of Clicitat county be extended north to the northeast corner of the county of Skamania; thence due east to a point which by running due south would strike the northeast corner of the present boundary of said Clicitat county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 31, 1861. (See Eighth Reg. Sess. 1860-61, p. 59.)

**No. 955.—AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITLED AN ACT DEFINING COUNTY LINES IN THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That section first of said act<sup>2</sup> be so amended as to read: Klickitat county shall be bounded as follows: Commencing at a point in mid-channel of the Columbia river, opposite Mimeloose Island, about five miles below the mouth of the Klickitat river; thence northerly to the summit of the mountains and the head waters of the Atahnam; thence following said waters to the Yakima; thence following the waters of the Yakima to the waters of the Columbia; thence down the Columbia to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 18, 1868. (See First Bien. Sess. 1867-68, p. 59.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 1031, § 20, *infra*.

CHAPTER XVIII.—LEWIS COUNTY.†

**No. 956.—AN ACT TO LOCATE THE COUNTY SEAT OF LEWIS COUNTY.<sup>1</sup>**

§ 1. **Site.**—SECTION 1. *Be it enacted, etc.*, That the county seat of Lewis county be and the same is hereby located at the present crossing of the Newakum river, on John Moore's land claim: *Provided*, That within sixty days after the passage of this act the said John Moore execute a quit claim deed for ten acres of land to the county commissioners of said county, for the site of the public buildings, and also a quit claim deed to the undivided half of one hundred and forty acres of land in addition thereto.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1855. (See Second Reg. Sess. 1854-55, p. 42.) All conflicting laws repealed. In effect from date.

† See No. 1031, § 13, *infra*, and No. 1032, § 3.

**No. 957.—AN ACT TO EXTEND AND DEFINE THE EASTERN AND NORTH BOUNDARIES OF LEWIS COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the line forming the northern boundary of the county of Lewis shall commence at the corner to sections twenty-two (22), twenty-three (23), twenty-six (26) and twenty-seven (27) in township fifteen (15), north of range number four (4) west, on the east boundary of the county of Chehalis, and run thence east, between the second and third tier of sections, of townships numbered fifteen north, to the summit of the Cascade mountains; thence in a southerly direction along the summit of said mountains till it reaches the line forming the present boundary of Lewis county.

§ 2. **Thurston County.**—SEC. 2. That that part of Lewis county lying north of the line described in section one of this act, shall be and constitute a part of Thurston county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 26, 1861. (See Eighth Reg. Sess. 1860-61, p. 33.) In effect from date.



**No. 958.—AN ACT TO CHANGE THE BOUNDARIES OF PACIFIC, WAHKA-KUM, LEWIS AND SKAMANIA COUNTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. SEC. 2. That the west boundary of Lewis county be made to continue south along the west boundary of 5 west to the southwest corner of township 11 north, range 5 west, and thence east along south boundary of township 11 north, to the summit of the Cascade range.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1879. (See Seventh Blen. Sess. 1879, p. 213.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 959.—AN ACT DEFINING THE BOUNDARY LINES OF LEWIS COUNTY.<sup>1</sup>**

§ 1. *Be it enacted, etc.* SECTION 1. That the boundary lines of Lewis county shall be as follows, to wit: Beginning at the northwest corner of section eighteen, in township number fifteen north, range five west; thence south along the west boundary of range five west, to the southwest corner of township eleven north, range five west; thence east along south boundary of township eleven north, to the summit of the Cascade range; thence northerly along said summit to the head of Nesqually river; thence westerly down the channel of said river to a point two miles north of the line between townships fourteen and fifteen north; thence west to the northwest corner of section twenty-six, in township fifteen north, range four west; thence north two miles to the northwest corner of section fourteen in township fifteen north, range four west; thence west to place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 31, 1888. (See Eleventh Blen. Sess. 1887-88, p. 73.) In effect from date

**CHAPTER XIX.—LINCOLN COUNTY.**

**No. 960.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF LINCOLN.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Spokane county, Washington Territory, described as follows: Beginning at the point in township No. 27 north, where the Colville guide meridian between ranges 39 and 40 east, Willamette meridian intersects the Spokane river, and running thence south along said meridian line to the township line between townships numbered 20 and 21 north; thence west along said township line to its intersection with the Columbia guide meridian between ranges numbered 30 and 31 east, Willamette meridian; thence south along said meridian line to the township line between townships numbered 16 and 17 north; thence west on said township line to the range line between ranges 27 and 28 east, Willamette meridian; thence south on said range line to the section line between sections numbered 24 and 25, in township No. 14, north of range No. 27 east, Willamette meridian; thence west on said section line to the mid-channel of the Columbia river; thence up said river in the middle of the channel thereof to the mouth of the Spokane river; thence up said Spokane river in the middle of the channel thereof, to the place of beginning, shall be known and designated as the county of Lincoln.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 24, 1883. (See Ninth Blen. Sess. 1883, p. 89.) In effect from date.

§ 2. **Taxes, 1883.**—SEC. 5. That all taxes levied and assessed for the year 1883 upon the persons and property within the boundaries of Lincoln county, as herein described, shall be collected and paid to the treasurer of the county of Spokane, and shall thereafter be paid upon demand, according to assessment, to the treasurer of the county of Lincoln.

\* \* \* \* \*

§ 3. **Judicial, etc., Purposes.**—SEC. 8. The county of Lincoln shall be attached to the county of Spokane for judicial and legislative purposes, until otherwise provided by law.

\* \* \* \* \*

## CHAPTER XX.—MASON COUNTY.†

### No. 961.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SAWAMISH.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Thurston county embraced within the following boundaries, to wit: Commencing in the middle of the main channel of Puget Sound, opposite the mouth of Case's Inlet; thence westerly along the main channel to the point of land between Eld's Inlet and Totten's Inlet; thence westerly, following the dividing ridge between said inlets to the summit of the coast range of mountains; thence due west to the Pacific coast; thence northerly along said coast thirty miles; thence due east to the middle of the main channel of Hood's Canal; thence along the middle of said channel to Wilke's Portage; thence easterly to the head of Case's Inlet; thence down the middle of the main channel to the place of beginning, is hereby constituted and organized into a separate county, to be known and called Sawamish county.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 474.) See also No. 967, *infra*.

† See also No. 1031, § 7, *infra*, and No. 1032, Note 1.

### No. 962.—AN ACT TO LOCATE THE COUNTY SEAT OF SAWAMISH COUNTY.<sup>1</sup>

§ 1. **Site.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of Sawamish county be and they are hereby authorized to locate the seat of justice, or county seat, at or near the head of Skookum Bay, on a tract of land selected by the commissioners of said county for that purpose.

§ 2. **Disposition of.**—SEC. 2. And the county commissioners of said county are hereby authorized to have the site surveyed and laid off in town lots to be disposed of as they may deem proper for the best interest of said county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 15, 1855. (See Second Reg. Sess. 1854-55, p. 42.) In effect from date.

### No. 963.—AN ACT TO DEFINE THE BOUNDARY LINE BETWEEN SAWAMISH AND THURSTON COUNTIES.<sup>1</sup>

§ 1.—SECTION 1. *Be it enacted, etc.,* That the boundary line of the county of Sawamish shall be as follows: Commencing in the channel of Puget Sound, west of the southern portion of the Squaxen reservation,

<sup>1</sup> Passed Jan. 30, 1860. (See Seventh Reg. Sess. 1859-60, p. 458.) In effect from date.

on the line between townships numbers 19 and 20 north, in range 2 west, and running thence on the township line west to the corner to sections 3, 4, 33 and 34; thence south one mile; thence west one mile; thence south one mile; thence west one mile; thence south one mile; thence west one mile, between sections 18 and 19, to the township line between ranges 2 and 3 west, in township 19 north; thence south two miles; thence west two miles; thence south to the line between townships 18 and 19 north, in range 3 west; thence west one mile to corner sections 33, 34, 3 and 4; thence south three miles; thence west three miles, to the line between ranges 3 and 4 west, township 18 north; thence south three miles, to the corner to townships 17 and 18 north, range 3 and 4 west.

\* \* \* \* \*

**No. 964.—AN ACT TO AMEND AN ACT ENTITLED AN ACT DEFINING THE BOUNDARY LINE BETWEEN THE COUNTIES OF SAWAMISH AND THURSTON.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the act to which this is amendatory<sup>2</sup> be so amended as to read: "The boundary line between the counties of Sawamish and Thurston shall commence at a point in the middle of the main channel of Puget Sound opposite the mouth of Case's Inlet; thence westerly along said channel to the mouth of Eld Inlet; thence southerly along the middle of the main channel of said inlet to a point two miles due north of township line between township eighteen (18) and nineteen (19) north; thence due west to the corner of sections twenty-three (23), twenty-four (24), twenty-five (25) and twenty-six (26), in township nineteen (19) north, range three (3) west; thence two miles south; thence two miles west."

\* \* \* \* \*

<sup>1</sup> Passed Jan. 24, 1861. (See Eighth Reg. Sess. 1860-61, p. 30.) In effect from date.

<sup>2</sup> See No. 963, *supra*.

**No. 965.—AN ACT DEFINING THE BOUNDARY LINE BETWEEN SAWAMISH AND KITSAP COUNTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the eastern boundary line of Sawamish county, terminating at the corners of sections 4, 5, 33 and 32, townships 22 and 23 north, range 1 west, be extended three miles due north from said point; thence due west to the middle of the main channel of Hood's Canal.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 30, 1861. (See Eighth Reg. Sess. 1860-61, p. 56.) In effect from date.

**No. 966.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT DEFINING THE BOUNDARY LINE BETWEEN THE COUNTIES OF SAWAMISH AND THURSTON."<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the act to which this is amendatory<sup>2</sup> be so amended as to read as follows: Commencing at the corner of townships the corners of sections thirty-three and thirty-four, and three and four, seventeen and eighteen north, range three and four west, thence east to and thence due north to the middle of the main channel of Totten's Inlet; thence along said channel to the waters of Puget Sound, intersecting the line in channel of Puget Sound west of the southern portion of Squaxon reservation.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, p. 7, Local Laws.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See No. 962, *supra*.

**No. 967.—AN ACT TO CHANGE THE NAME OF SAWAMISH COUNTY TO MASON COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Sawamish county be and the same is hereby changed to Mason county, and the same shall hereafter be the legal name of said county.

\* \* \* \* \*  
<sup>1</sup> Passed Jan. 8, 1864. (See Eleventh Reg. Sess. 1863-64, p. 71.) In effect from date.

**No. 968.—AN ACT DEFINING THE BOUNDARY LINES OF MASON COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That Mason county shall be bounded as follows: Commencing in middle of the main channel of Puget Sound where it is intersected by the mid-channel of Case's Inlet; thence westerly along the mid-channel of Puget Sound via Dana's Passage into Totten's Inlet, and up said inlet to its intersection by section line between sections twenty-eight (28) and twenty-nine (29) in township (19) north, range three (3) west, of the Willamette meridian; thence south to the southwest corner of section thirty-three (33) in said township nineteen north, three west; thence west along the township line dividing townships eighteen (18) and nineteen (19) twenty miles to the township line dividing ranges six (6) and seven (7) west, of Willamette meridian, which constitutes a part of the east boundary line of Chehalis county; thence north along said township line to the sixth standard parallel; thence east along said parallel line to the middle of the channel of Hood's canal; thence southerly along said mid-channel to a point due west of the intersection of the shore line of said Hood's canal by the township line between township twenty-three (23) and twenty-four (24); thence east along said township line to the line dividing sections three and four in said township twenty-three north, one west, of the Willamette meridian; thence south along said section line to the head of Case's Inlet; thence south by the mid-channel of said inlet to the place of beginning.

§ 2. **Repealing Clause.**—SEC. 2. All acts and parts of acts affixing county lines affecting said Mason county inconsistent or conflicting with this act are hereby repealed.

\* \* \* \* \*  
<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 406.) In effect from date.

CHAPTER XXI.—OKANOGAN COUNTY.

**No. 969.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF OKANOGAN.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all of that part of Stevens county beginning at the intersection of the 49th parallel with the range line between ranges 31 and 32 east, and from thence running in a southerly direction on said range line to the intersection of the said range line with the Columbia river and thence down said river to the confluence of Wenatchee river, and thence up the said river and along the present western boundaries of Stevens county to the 49th parallel, and thence on the said parallel to the place of first beginning, shall be and constitute the county of Okanogan.

\* \* \* \* \*  
<sup>1</sup> Approved Feb. 2, 1888. (See Eleventh Blen. Sess. 1887-88, p. 70.) All conflicting acts and parts of acts repealed. In effect from date.

§ 2. **What Laws Govern.**—SEC. 6. All special laws applicable to the county of Stevens shall be and remain equally applicable to the county of Okanogan.

§ 3. **Judicial Purposes.**—SEC. 7. The county of Okanogan shall be attached to the county of Spokane for judicial purposes.

§ 4. **Taxes, 1887.**—SEC. 8. That all the taxes levied and assessed by the board of county commissioners of the county of Stevens for the year 1887, upon persons or property within the boundaries of the said county of Okanogan, shall be collected and paid into the treasury of the county of Stevens: *Provided, however,* that the said county of Stevens shall credit said county of Okanogan with the amount of money collected for the taxes for said year from the persons and from the property situated within the boundaries of the county of Okanogan in the adjustment of the debt of the said county of Stevens between said county and the county of (Okanogan), and the surplus, if any there be, shall be paid to the county of Okanogan.

\* \* \* \* \*

## CHAPTER XXII.—PACIFIC COUNTY.†

### No. 970.—AN ACT TO DEFINE THE EASTERN BOUNDARY OF PACIFIC COUNTY.<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.,* That the eastern boundary of Pacific county commence at a point in the channel of the Columbia river due south of a mountain known as Jim Crow; thence due north over the summit of said mountain to the southern boundary of Chehalis county. <sup>1</sup>

\* \* \* \* \*

<sup>1</sup>(See First Reg. Sess. 1854, p. 471.) In effect from date, but no date given.

† See No. 1031, § 17, *infra*, and No. 1032, Note 1.

### No. 971.—AN ACT DEFINING THE BOUNDARY LINES OF PACIFIC COUNTY.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the boundary lines of Pacific county are defined as follows: Beginning at a point in the channel of the Columbia river due south of Cape Hancock; thence north to Cape Hancock; thence northerly, according to the meanderings of the Pacific coast, to the corner of fractional sections 19 and 30, in township 15 north of range 11 west of Willamette meridian; thence east to a point due north of the summit of Jim Crow mountain; thence south to the channel of the Columbia river; thence down the channel of said river to the place of beginning.

§ 2. **Repealing Clause.**—SEC. 2. All acts conflicting with this act are hereby repealed.

§ 3. **Date in Effect.**—SEC. 3. This act to take effect on the first day of April, 1860.

<sup>1</sup> Passed Jan. 13, 1860. (See Seventh Reg. Sess. 1859–60, p. 429.)

### No. 972.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO DEFINE THE BOUNDARY LINES OF PACIFIC COUNTY."<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.,* That the act to which this act is amendatory, passed January 13, 1860,<sup>2</sup> be amended by striking out the figures nineteen and thirty and inserting in lieu thereof the figures (7) seven and (18) eighteen, consecutively.

<sup>1</sup> Approved Nov. 14, 1873. (See Fourth Blen. Sess. 1873, p. 538.)

<sup>2</sup> See No. 971, *supra*.



**No. 973.—AN ACT CREATING AND CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF PACIFIC.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and is hereby established within and for the county of Pacific to be called the District Court of Pacific county.

§ 2. **Jurisdiction.**—SEC. 2. That said court shall have exclusive jurisdiction within said county of all matters and causes except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the Second judicial district holding terms at Kalama, for the county of Pacific, with the same rights to appeals, *certiorari* and writs of error from inferior courts and to the supreme court as is now provided and allowed by law.

\* \* \* \* \*

§ 3. **Clerk.**—SEC. 4. The said judge of the Second judicial district shall appoint a clerk of the court \* \* \*

§ 4. **Practice.**—SEC. 5. The various laws now in force and which may hereafter be enacted regulating the practice and proceedings in civil actions and in criminal prosecutions in Territorial causes shall govern the practice and proceedings in said district court of the county of Pacific.

\* \* \* \* \*

§ 5. **Pending Actions.**—SEC. 10. All civil actions now pending in the district court of the Second judicial district, holding terms at Kalama, wherein the subject of the action or some part thereof is situated in said county of Pacific, according to section 48 of the civil practice act of 1873,<sup>2</sup> \* \* \* or wherein service of summons was had upon any defendant in said Pacific county, shall be transferred by order of the judge of said court to the district court of Pacific county for trial, and shall then be heard and determined in the same manner as though said cause had been originally commenced in said Pacific county.

§ 6. **Terms.**—SEC. 11. The regular terms of said district court of Pacific county shall be held on the second Monday of August in each and every year, and each term held for two weeks unless sooner adjourned.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 17, 1877. (See Sixth Bien. Sess. 1877, p. 365.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 142, *supra*, and 141, § 2.

**No. 974.—AN ACT TO CHANGE THE BOUNDARIES OF PACIFIC, WAHKIAKUM, LEWIS AND SKAMANIA COUNTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the east boundary line of Pacific county, Washington Territory, be so changed as to run as follows: Beginning at the southwest corner of Wahkiakum county,<sup>2</sup> on the Columbia river, running thence west, down said river, to where the line between ranges 8 and 9 west intersects said river; thence north along said line to the north boundary of township ten north; thence east along said boundary to the line between ranges 6 and 7 west; thence south to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1879. (See Seventh Bien. Sess. 1879, p. 213.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 1011, *infra*.

## CHAPTER XXIII.—PIERCE COUNTY.†

**No. 975.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ORGANIZE THE COUNTY OF PIERCE," PASSED THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF OREGON, DECEMBER 22D, 1852.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the boundary lines of Pierce county be and the same are hereby defined and established as follows: Commencing at the middle of the mouth of the main channel of the Nisqually river; thence north along the main channel of Puget's Sound, between Anderson's Island and the main land, to the head of Case's Inlet; thence due east to the middle of the west channel of the passage between Vashon's Island and the main land; thence south along said channel to a point opposite to point Defiance; thence east from the point last aforesaid, up the middle of Commencement Bay, to the mouth of the main channel of the river Puyallup; thence easterly to the head of Stuck river; thence due east to the middle of the main channel of White river; thence up the middle of the main channel of said river to the head of the same; thence due east to the summit of the Cascade range of mountains; thence south along the summit of said range of mountains to a parallel of latitude passing through the mouth of Michael's Fork of the Nisqually river; thence down along the middle of the main channel of said river, to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 25, 1855. (See Second Reg. Sess. 1854-55, p. 33.) See also No. 70, *supra*. All conflicting laws repealed. In effect from date.

† See No. 1031, § 11, *infra*, and No. 1032, Note 1.

**No. 976.—AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF PIERCE.<sup>1</sup>**

§ 1. **One District.**—SECTION 1. *Be it enacted, etc.,* That for the trial of civil actions, \* \* \* the county of Pierce shall be considered a district, and not a portion of the Second judicial district of said Territory. \* \* \*

§ 2. **Terms.**—SEC. 2. Terms of said district court of the county of Pierce shall be held at the county seat of said county by the district judge of said Second judicial district, upon the fourth Monday of March and the third Monday of September of each and every year; \* \* \*

§ 3. **Clerk.**—SEC. 3. The said district judge of the Second judicial district shall appoint a clerk of said district court, \* \* \* and said district court shall be a court of record, \* \* \*

§ 4. **Practice.**—SEC. 4. The various laws now in force regulating the practice and proceedings in civil actions \* \* \* shall govern the practice and proceedings in said district court of the county of Pierce. \* \* \*

\* \* \* \* \*

<sup>1</sup> Passed Jan. 21, 1859. (See Sixth Reg. Sess. 1858-59, p. 27.) All inconsistent acts and parts of acts repealed.

**No. 977.—AN ACT DEFINING THE BOUNDARY LINE OF PIERCE COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the boundary line of Pierce county shall be bounded as follows: Commencing at a

<sup>1</sup> Passed Jan. 29, 1859. (See Sixth Reg. Sess. 1858-59, p. 59.) All conflicting acts or parts of acts repealed.

point in the middle of the channel of Puget Sound opposite the mouth of the Nisqually river; thence westerly along the middle of the main channel of Puget Sound to a point opposite Case's Inlet; thence north along the main channel to the head of said inlet; thence due north to the line of township 22 north, range 1 west; thence due east to the middle of the channel of Colver's Passage; thence south along the middle of said passage and the middle of the main channel of Commencement Bay to a point on the 5th standard parallel; thence due west to the middle of the channel of White river to the summit of the mountains in the Nachess pass; thence south along the summit of said mountains to the head waters of the Nisqually river; thence westerly along the middle of the main channel of the Nisqually river to the place of beginning.

\* \* \* \* \*

**No. 978.**—AN ACT SUPPLEMENTARY TO AND AMENDATORY OF AN ACT PASSED JANUARY 21, 1859, ENTITLED "AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF PIERCE."<sup>1</sup>

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.,* That a court is hereby<sup>2</sup> established within and for the county of Pierce to be called the district court for the county of Pierce.<sup>3</sup>

§ 2. **Jurisdiction.**—SEC. 2. The said court shall have exclusive jurisdiction within said county of all matters and causes, except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the Second judicial district, with the same rights as to appeals, *certiorari* and writs of error from inferior courts and to the supreme court as is now provided and allowed by law.

§ 3. **Terms.**—SEC. 3. Said court shall be held by the judge of the Second judicial district, at the county seat of Pierce county, upon the fourth Monday of March and the third Monday of September of each and every year or at such time or times as shall be prescribed by the judges of the supreme court, or a majority of them.

§ 4. **Clerk.**—SEC. 4. The said judge of the Second judicial district shall appoint a clerk of the court, \* \* \* and said district court shall be a court of record, \* \* \*

§ 5. **Practice.**—SEC. 5. The various laws now in force and which may hereafter be enacted regulating the practice and proceedings in civil actions and in criminal prosecutions shall govern the practice and proceedings in said district court of the county of Pierce.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 30, 1860. (See Seventh Reg. Sess. 1859-60, p. 467.) See also No. 976, *supra*. All inconsistent acts and parts of acts repealed.

<sup>2</sup> See Nos. 980, 982, *infra*.

<sup>3</sup> See No. 980.

**No. 979.**—AN ACT TO REPEAL "AN ACT SUPPLEMENTARY TO AND AMENDATORY OF AN ACT PASSED JANUARY 21, 1859, ENTITLED AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF PIERCE," AND TO REPEAL ALL LAWS AUTHORIZING THE HOLDING OF SAID COURT, AND TO PROVIDE FOR THE TRANSMISSION OF THE BOOKS, RECORDS AND PAPERS BELONGING TO SAID PIERCE COUNTY COURT TO THE CLERK OF THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT.<sup>1</sup>

§ 1. **Repealing Clause.**—SECTION 1. *Be it enacted, etc.,* That the act passed January 30, 1860, entitled "an act supplementary to and amenda-

<sup>1</sup> Passed Jan. 31, 1861. (See Eighth Reg. Sess. 1860-61, p. 68.) In effect from date.

tory of an act passed January 21, 1859, entitled an act conferring jurisdiction upon the district court of the county of Pierce,"<sup>2</sup> and all laws or parts of laws conferring such jurisdiction, be and the same are hereby repealed, and that said county of Pierce shall be and constitute a part of the Second judicial district.

§ 2. **Pending Actions.**—SEC. 2. All complaints, writs and papers heretofore issued, and made returnable to the district court of Pierce county, shall be by the officer with whom the same may have been lodged for service, returned to the clerk of the court for the Second judicial district, unless the same shall have been returned before the passage of this act, to the clerk of the district court of Pierce county; and the district court of the Second judicial district shall have jurisdiction of and try all civil cases heretofore commenced in said county either by publication or actual service; and existing laws shall not be so construed as to entitle any party to a continuance because the notice served or published required the party or parties to appear and answer in the district court of Pierce county; but it shall be the duty of the district court of the Second judicial district, at its next term, to hear, try and determine all cases coming from said county as hereinbefore provided, if it shall appear from the papers or returns that service has been had, or publication of notice made for the length of time required by law to have enabled parties to have a determination of their action in the district court of Pierce county, had this act not been passed, unless a continuance shall be granted for causes provided in the civil practice act.

\* \* \* \* \*

<sup>2</sup> See No. 978, *supra*.

**No. 980.—AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF PIERCE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 14, 1862. (See Ninth Reg. Sess. 1861-62, p. 26.) All inconsistent laws and parts of laws repealed. In effect from date. This No. is *verbatim* as No. 978, *supra*, except § 1 of said No. at <sup>2</sup> instead of "court is hereby" read "court be and hereby is," and at <sup>3</sup> instead of "the county of Pierce" read "Pierce county."

**No. 981.—AN ACT AMENDATORY OF AND SUPPLEMENT TO AN ACT PASSED AT THE PRESENT SESSION OF THE LEGISLATIVE ASSEMBLY, ENTITLED "AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF PIERCE."<sup>1</sup>**

§ 1. **Act of 1862: Date in Effect.**—SECTION 1. *Be it enacted, etc.*, That section eleven (11) of the act which this is amendatory of,<sup>2</sup> and supplemental to, be so amended as to read: This act to take effect and be in force from and after the adjournment of the next term of the district court of the Second judicial district of Washington Territory.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 14, 1862. (See Ninth Reg. Sess. 1861-62, p. 103.) In effect from date.

<sup>2</sup> See No. 980, *supra*, note.

**No. 982.—AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF PIERCE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 11, Local Laws.) This No. is *verbatim* as No. 978, *supra*, except § 1 of said No., at <sup>2</sup> instead of "the county of Pierce" read "Pierce county." All inconsistent laws and parts of laws repealed. In effect from date.

**No. 983.—AN ACT DEFINING THE BOUNDARY LINE OF PIERCE COUNTY.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, In the year 1859, the Legislative Assembly of Washington Territory passed an act<sup>2</sup> defining the boundary line of Pierce county: and,

WHEREAS, The act as introduced has been lost and is not to be found in the secretary's office, and it is believed that the same was not correctly enrolled and printed, but if correctly done would have read and meant as by the following provisions will appear: therefore,

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the boundary line of Pierce county shall be as follows: Commencing at a point in the middle of the channel of Puget Sound opposite the mouth of the Nisqually river; thence along the middle of the main channel of Puget Sound to a point opposite the middle of the main channel of Case's Inlet at its mouth; thence along the center of the main channel of said inlet to its head; thence in a straight line to the line of township twenty-two north, range one west; thence easterly to the middle of the main channel of Colver's Passage; thence along the middle of said passage and the main channel of Commencement Bay to a point on the fifth standard parallel; thence in a straight line to a point in the middle of the main channel of White river opposite the head of Stuck river; and thence in a straight line to a point on the summit of the Cascade range at the Naches Pass, where the military road leading from Fort Steilacoom to Fort Walla-walla strikes said summit; thence southerly along the summit of mountains to the headwaters of the Nisqually river; thence along the middle of the main channel of Nisqually river to the point of beginning.

<sup>1</sup> Disapproved by Governor Dec. 22, 1864. Passed by Council over veto Jan. 4, 1865, and by House Jan. 5, 1865. (See Twelfth Reg. Sess. 1864-65, p. 49.)

<sup>2</sup> See No. 977, *supra*.

**No. 984.—AN ACT TO LEGALIZE THE ACTS OF THE PROBATE COURT OF PIERCE COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That all acts of the probate court of the county of Pierce, had and done at terms illegally held upon days not specified by law, be and the same are hereby declared legal, and of the same and no more binding force and effect than as if had and done upon days legally specified by law.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 11, 1865. (See Twelfth Reg. Sess. 1864-65, p. 66.) In effect from date.

CHAPTER XXIV.—QUILLEHUYTE COUNTY.†

**No. 985.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF QUILLEHUYTE.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of the Territory of Washington included within the following limits be and the same is hereby organized into a county known as the county of Quillehuyte, to wit: Commencing at the mouth of the Wyatch river on

<sup>1</sup> Approved Jan. 29, 1868. (See First Blen. Sess. 1867-68, p. 80.) In effect from date.

† See No. 1032, § 10, *infra*.



the Pacific coast, and extending in a southeasterly direction along the summit of the Olympic range of mountains to a point where the 124th meridian of west longitude crosses the 48th parallel of latitude; thence south along said parallel of longitude to the north boundary of Chehalis county; thence west along said boundary to the Pacific Ocean to low tide mark; thence along said coast north, including all islands, to the place of beginning.

\* \* \* \* \*

§ 2. **What Laws Govern.**—SEC. 3. All laws of a general nature in regard to counties in this Territory shall be applicable to said county.

\* \* \* \* \*

§ 3. **Judicial Purposes.**—SEC. 5. The said county of Quillehuyte shall be united to the Third judicial district for judicial purposes.

\* \* \* \* \*

## CHAPTER XXV.—SAN JUAN COUNTY.

### No. 986.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SAN JUAN.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all the islands forming the De Haro Archipelago, and hitherto known as the disputed islands and which are at present included within Whatcom county, be and the same are hereby organized and established a county to be known as San Juan county, and shall be bounded as follows: Commencing in the Gulf of Georgia at the place where the boundary line between the United States and the British possessions deflects from the 49th parallel of north latitude; thence following said boundary line through the Gulf of Georgia and Canal De Haro to the middle of the Straits of Fuca; thence easterly through Fuca Straits until opposite the middle of the entrance to Rosario Straits; thence northerly through the middle of Rosario Straits and through the Gulf of Georgia to the place of beginning.

\* \* \* \* \*

§ 2. **Taxes.**—SEC. 9. All taxes now due within the boundaries of San Juan county shall be paid to the county treasurer of San Juan county.

§ 3. **Judicial Purposes.**—SEC. 10. San Juan county shall be attached to the counties of Whatcom, Island, Jefferson and Clalm for judicial purposes.

\* \* \* \* \*

<sup>1</sup>Approved Oct. 31, 1873. (See Fourth Blen. Sess. 1873, p. 461.) In effect from date.

### No. 987.—AN ACT DEFINING THE BOUNDE(A)RY BETWEEN THE COUNTY OF ISLAND AND THE COUNTIES OF SAN JUAN, WHATCOM AND SNOHOMISH.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.,* That the bounde(a)ry line between the county of Island<sup>2</sup> and the county of San Juan shall be the center of the main channel between Blunt's Island and San Juan and Lopez Island, commencing at the center of Admiralty Inlet and extending in an easterly direction of the west entrance to Deception Pass.

\* \* \* \* \*

<sup>1</sup>Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 425.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup>See Nos. 942, 943, *supra*.

CHAPTER XXVI.—SAWAMISH COUNTY.†

† See "Mason County," Nos. 961 to 967, *supra*.

CHAPTER XXVII.—SKAGIT COUNTY.

**No. 988.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SKAGIT.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of the county of Whatcom, in the Territory of Washington, lying and situate south of the dividing line between townships thirty-six and thirty-seven (commencing at mid-channel of the Rosario Straits, and running eastward to the summit of the Cascade range of mountains), to the dividing line between said county of Whatcom and the counties of Island and Snohomish, be and the same is hereby organized into a separate county, to be known and designated as the county of Skagit: *Provided*, That so much of Lummi and Eliza Islands as lie south of the dividing line between said townships thirty-six and thirty-seven shall belong to Whatcom county.

\* \* \* \* \*

§ 2. **Judicial Powers.**—SEC. 4. That the district court now established and holding terms at LaConner for the territory embraced within the present limits of Whatcom county, shall continue at LaConner as the district court for Skagit county; and the county of Whatcom is hereby annexed to said Skagit county for judicial and legislative purposes, and all laws at present applicable to the county of Whatcom, relative to the powers and jurisdiction or otherwise of said district court, shall continue in full force and effect the same as if said county had not been divided, and the title of said county changed as herein provided.

\* \* \* \* \*

§ 3. **Taxes, 1883.**—SEC. 6. That all taxes levied and assessed by the board of county commissioners of the county of Whatcom for the year 1883, upon persons or property within the boundaries of the county of Skagit, shall be collected and paid into the treasury of said Whatcom county for the joint use of the counties of Whatcom and Skagit as hereinafter provided.

§ 4. **Division of Property—Collection of Taxes.**—SEC. 7. That the county auditors of Whatcom and Skagit counties are hereby constituted a board of appraisers and adjusters of the real and other property of the county of Whatcom, and for this purpose shall meet at Whatcom on the first Monday of February, 1884. They shall appraise the value of the court house, safes and real estate of the county, and ascertain the balance in the county treasury, over and above the outstanding warrants upon said treasury at that date, and shall award to the county of Whatcom one-half and to the county of Skagit one-half of such property and funds so appraised and ascertained: *Provided*, That if both auditors cannot agree upon the appraised valuation of such property, they shall elect a citizen from an adjoining county as arbitrator to adjust the difference between them. Then the auditor of Whatcom county shall draw a warrant on the

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Blen Sess. 1883, p. 97.) All conflicting acts and parts of acts repealed. In effect from date.

treasury of said county in favor of the said county of Skagit for the amount so agreed upon as its proportion of the property: *Provided further*, That all taxes remaining unpaid upon property within the boundaries of Skagit county at the date of the settlement herein provided for, shall be turned over to the auditor of Skagit county, to be collected by the proper officer of said county as now provided by law.

\* \* \* \* \*

### CHAPTER XXVIII.—SKAMANIA COUNTY.†

#### No. 989.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SKAMANIA.<sup>1</sup>

§ 1. **Boundaries, Powers, etc.**—SECTION 1. *Be it enacted, etc.*, That all that portion of Clarke county lying east of Cape Horn be and the same is hereby organized into a county, with all the powers, rights and privileges of other counties in the Territory; and that it shall be bounded as follows: Commencing at a point due north of a rock on the south bank of Columbia river, called Rooster Rock, running thence north to the parallel of 46 deg. 30 minutes north latitude; thence along said parallel east to Rocky mountains; thence along base of Rocky mountains to southeast corner of the Territory of Washington; thence down along the line of Oregon and Washington Territory to place of beginning.

§ 2. **Name.**—SEC. 2. Said county shall be called Skamania.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 473.)

† See No. 1031, § 19, *infra*, and No. 1032, § 6.

#### No. 990.—AN ACT TO LEGALIZE THE ASSESSMENT AND COLLECTION OF TAXES OF SKAMANIA COUNTY IN THE YEAR 1862.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That the assessment and collection of taxes in Skamania county for the year eighteen hundred and sixty-two be and the same is hereby legalized.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 26, 1863. (See Tenth Reg. Sess. 1862-63, p. 33 Local Laws.) In effect from date.

#### No. 991.—AN ACT IN RELATION TO THE COUNTY OF SKAMANIA.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the county of Skamania, in the Territory of Washington, be and is hereby divided, and the portions thus divided are respectively attached to and incorporated with the several counties of Clarke and Klickitat according to the following boundaries, to wit: The line dividing the said county of Skamania shall commence at a point in the middle of the Columbia river, directly opposite to the mouth of Rock creek, which empties into said river in said county of Skamania, and said line shall run due north to the northern line of said county; thence west along the line of said county to the corner or line of Clarke county; and all that part of Skamania county embraced between and within the boundaries aforesaid and the Columbia river, from the mouth of the said Rock creek to the present line of Clarke county on said river, shall be attached to and constitute a part of Clarke county; and all that part of Skamania county not embraced in the lines and boundaries aforesaid shall be annexed to and constitute a part of Klickitat county, in the said Territory of Washington.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 14, 1865. (See Twelfth Reg. Sess. 1864-65, p. 44.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 992.—AN ACT TO CHANGE THE COUNTY LINE BETWEEN SKAMANIA AND KLINKITAT COUNTIES.,**

§ 1. SECTION 1. *Be it enacted, etc.,* That the county line between the counties of Skamania and Klickitat shall hereafter be as follows: Commencing at a point in the mid-channel of the Columbia river, directly opposite the mouth of the White Salmon river; thence up the said channel of said White Salmon river as far north as to the southern boundary of township four (4) north, of range ten (10) east of Willamette meridian; thence due west on said township line to range nine (9) east of Willamette meridian; thence north following said range line till it intersects the southern boundary of Yakima county.

\* \* \* \* \*

<sup>1</sup> Approved No. 29, 1881. (See Eighth Blen. Spe. Sess. 1881, p. 187.) All conflicting acts and parts of acts repealed. In effect from date.

CHAPTER XXIX.—SLAUGHTER COUNTY.

**No. 993.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SLAUGHTER.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of the counties of King and Jefferson embraced within the following boundaries, to wit, commencing at a point in the main channel of Colver's Passage and running west, following the old boundary line of King to the head of Case's Inlet; thence westerly along said line to the head of Hood's Canal; thence following the main channel of said canal to junction with Admiralty Inlet; thence following the main ship channel of said inlet to its junction with Colver's Passage; thence following the main channel of said passage to the point of beginning, is hereby constituted and organized into a separate county, to be known and called Slaughter county.

§ 2. **Powers, etc.**—SEC. 2. That said territory shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in the Territory of Washington, and entitled to elect the same officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 16, 1857. (See Fourth Reg. Sess. 1856-57, p. 52.)

CHAPTER XXX.—SNOHOMISH COUNTY.†

**No. 994.—AN ACT TO CREATE AND ORGANIZE SNOHOMISH COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—*The Legislative Assembly of the Territory of Washington do enact as follows:* SECTION 1. The boundaries of the county of Sno-

<sup>1</sup> Passed Jan. 14, 1861. (See Eighth Reg. Sess. 1860-61, p. 19.)

† See No. 1031, § 4, *infra*, and No 1032, Note 1.

homish shall be as follows: Beginning at the northwest corner of the county of King, being at the point where township line north of township number twenty-six strikes Puget Sound waters, thence running due east by said north line of township No. 26 to the summit of the Cascade mountains; thence northerly by the said summit till it strikes the easterly continuation of the eighth standard parallel; thence due west by the said parallel till it strikes the channel of the waters near the mouth and southward of the Skagit river; thence by the channel running eastward of Camano or McDonald's Island, and through Port Susan bay, and leaving Gedney's Island to the east; thence southerly to the place of beginning

\* \* \* \* \*

**No. 995.—AN ACT AMENDATORY OF AN ACT TO CREATE AND ORGANIZE SNOHOMISH COUNTY, PASSED JANUARY 14TH, 1861.<sup>1</sup>**

§ 1. **Powers, etc.**—SECTION 1. *Be it enacted, etc.*, That an act to create and organize Snohomish county<sup>2</sup> is hereby amended by adding a section as section four to read as follows: The county of Snohomish created by this act shall be and remain as heretofore, attached to Island county for legislative and judicial purposes; shall in all other respects compose a county for civil and military purposes, and shall be governed by the same laws, rules, regulations and restrictions as other counties in the Territory of Washington, and entitled to elect the same officers as other counties are entitled to elect.

<sup>1</sup> Passed Jan. 27, 1862. (See Ninth Reg. Sess. 1861-62, p. 107.)

<sup>2</sup> See No. 994, *supra*.

**No. 996.—AN ACT CREATING AND CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF SNOHOMISH.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and is hereby established within and for the county of Snohomish, to be called the district court of Snohomish county.

§ 2. **Jurisdiction.**—SEC. 2. That said county [court] shall have exclusive jurisdiction within said county of all matters and causes except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the third judicial district holding terms at Steilacoom for the county of Pierce, with the same rights to appeals, *certiorari* and writs of error from inferior courts, and to the supreme court, as is now provided and allowed by law.

\* \* \* \* \*

§ 3. **Clerk.**—SEC. 4. The said judge of the Third judicial district shall appoint a clerk. \* \* \* and said district court shall be a court of record, \* \* \*

§ 4. **Practice.**—SEC. 5. The various laws now in force, and which may hereafter be enacted regulating the practice and proceedings in civil actions, and in criminal prosecutions in Territorial causes, shall govern the practice and proceedings in said district court of the county of Snohomish.

\* \* \* \* \*

§ 5. **Pending Actions.**—SEC. 10. All civil actions now pending in the district court of the Third judicial district, holding terms at Seattle, wherein the subject of the action or some part thereof is situated in said

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 121.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 142, *supra*, and 141, §2.



County of Snohomish, according to section 48 of the civil practice act of 1878,<sup>2</sup> \* \* \* of said practice act, or wherein service of summons was had upon any defendant in said Snohomish county, shall be transferred by order of the judge of said court to the district court of Snohomish county for trial, and shall there be heard and determined in the same manner as though said cause had been originally commenced in said Snohomish county.

§ 6. **Terms.**—SEC. 11. The regular terms of said district court of Snohomish county shall be held on the third Tuesday of March and the second Tuesday of November in each and every year, \* \* \*

\* \* \* \* \*

**No. 997.—AN ACT DEFINING THE BOUND(ARY) BETWEEN THE COUNTY OF ISLAND AND THE COUNTIES OF SAN JUAN, WHATCOM AND SNOHOMISH.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **SEC. 3.** Snohomish county shall be bounded as follows: Commencing at the southwest corner of Whatcom county; thence east to the summit of the Cascade mountains; thence southerly along the summit of said Cascade mountains to the northeast corner of King county, it being a point due east of the northeast corner of township number twenty-six north, of range four east; thence due west along the north boundary of King county to Admiralty Inlet; thence northerly along the channel of said inlet to the entrance of Port Susan, including Gedney Island; thence up the main channel of Port Susan to the mouth of the Steilaguamish river; thence northwesterly through the channel of the slough at the head of Camano Island, known as Davis slough; thence northerly to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 425.) All conflicting acts and parts of acts repealed. In effect from date.

**CHAPTER XXXI.—SPOKANE COUNTY.†**

**No. 998.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SPOKANE.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of the county of Walla Walla embraced within the following boundaries, to wit: Commencing at the mouth of Snake river, following up said river mid-channel to (46th) forty-sixth parallel of north latitude; thence east along said parallel to the summit of the Rocky mountains; thence north following said summit to the (49th) parallel of north latitude; thence west along said parallel to the Columbia river; thence down mid-channel of said river to the place of beginning. The same is hereby constituted and organized into a separate county, to be known and called "Spokane county."

§ 2. **Powers, etc.**—SEC. 2. That said territory shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in the Territory of Washington, and entitled to elect the same officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 29, 1858. (See Fifth Reg. Sess. 1857-58, p. 51.)

† See also No. 1001, *infra*.

**No. 999.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF SPOKANE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 17, 1860. (See Seventh Reg. Sess. 1859-60, p. 436.) This No. is *verbatim* as No. 998 except a new section is added as follows: "Said county of Spokane shall constitute a part of the First judicial district; but for the purpose of hearing and determining all matters and causes in the district court, except those in which the United States is a party, it shall be and remain attached to the county of Walla Walla."

**No. 1000.—AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF SPOKANE.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.,* That a court is hereby established at the county seat of Spokane county, to be called the district court of Spokane county.

§ 2. **Jurisdiction.**—SEC. 2. Said court shall have exclusive jurisdiction within the counties of Spokane \* \* \* of all matters and cases except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the First judicial district, with the same right as to appeals, *certiorari* and writs of error from inferior and to the supreme court as is now or hereafter may be provided by law.

§ 3. **Terms.**—SEC. 3. Said court shall be held by the judge of the First judicial district, at the county seat of Spokane county, at such time or times as shall be prescribed by the judge of the supreme court.

§ 4. **Clerk.**—SEC. 4. The said district judge of the First judicial district shall appoint a clerk of the court, \* \* \* and said district court shall be a court of record, \* \* \*

§ 5. **Practice.**—SEC. 5. The various laws now in force and which may be hereafter enacted regulating the practice and proceedings in civil actions and in criminal prosecutions shall govern the practice and proceedings in said district courts of the county of Spokane.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 3, 1862. (See Ninth Reg. Sess. 1861-62, p. 12.) All inconsistent acts and parts of acts repealed.

**No. 1001.—AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF SPOKANE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Approved Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 16, Local Laws.) This No. is *verbatim* as No. 1000, *supra*. All inconsistent acts and parts of acts repealed.

**No. 1002.—AN ACT TO ORGANIZE SPOKANE COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of the Territory of Washington included within the following limits, be and the same is hereby organized into a county to be known and called Spokane county, viz.: Commencing at a point where the section line between section twenty-one (21) and twenty-eight (28), in township fourteen (14) north, range twenty-seven (27) east, Willamette meridian, Washington Territory, strikes the main body of the Columbia river on the west side of the island; thence west to the mid-channel of the Columbia river; thence up the mid-channel of the Columbia river to the Spokane river; thence up the mid-channel of the Spokane river to the Little Spokane river; thence north to the township line between townships twenty-nine

<sup>1</sup> Approved Oct. 30, 1879. (See Seventh Bien. Sess. 1879, p. 203.) All conflicting acts and parts of acts repealed. In effect from date.

and thirty; thence east to the boundary line between Washington and Idaho Territories; thence south on said boundary line to the fifth standard parallel; thence west on said parallel to the Columbia guide meridian; thence south on said meridian to the fourth standard parallel; thence west on the fourth standard parallel to the range line between ranges twenty-seven (27) and twenty-eight (28); thence south on said range line to the section line between sections twenty-four (24) and twenty-five (25), in township fourteen (14) north, range twenty-seven east, Willamette meridian; thence west to the place of beginning.

\* \* \* \* \*

§ 2. **Taxes, 1879.**—SEC. 3. That all taxes levied and assessed by the board of county commissioners of Stevens county for the year 1879, upon persons or property within the boundaries of said county of Spokane, shall be collected and paid into the treasury of Stevens county for the use of said county of Stevens: *Provided, however,* That nothing in this act shall be so construed as to deprive the county of Spokane of its proportion of the tax levied for common school purposes for the above named year: *And provided further,* That the county of Spokane shall not be liable for any of the indebtedness of the county of Stevens, nor entitled to any portion of the property of said county of Stevens.

§ 3. **Site of County Seat.**—SEC. 4. That the county seat of said county of Spokane be and the same is hereby temporarily located at the town of Spokane Falls, situated upon the south side of the Spokane river on section eighteen in township twenty-five north, range forty-three east, Willamette meridian, at which place the county seat shall remain until located elsewhere by a majority vote of the legal electors of said county, for which purpose there may be a vote taken at the next general election.

\* \* \* \* \*

§ 4. **Certain Laws in Force.**—SEC. 6. All acts of a local nature now in force in the county of Stevens shall have like force and effect in the county of Spokane as in the county of Stevens.

\* \* \* \* \*

## CHAPTER XXXII.—STEVENS COUNTY.†

### No. 1003.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF STEVENS.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Walla Walla county embraced within the following boundaries, to wit: Commencing at a point on the Columbia river where the 49th parallel of latitude crosses said river, thence west with said parallel to the summit of the Cascade mountains; thence south with the summit of said mountains to the Wenatchee river; thence down mid-channel of said river to the Columbia river; thence up mid-channel of said river to the place of beginning, be and the same is hereby constituted and organized into a separate county to be known and called Stevens county.

§ 2. **Powers, etc.**—SEC. 2. That said territory shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restrictions as all other counties in the Territory of Wash-

<sup>1</sup> Passed Jan. 20, 1863. (See Tenth Reg. Sess. 1862-63, p. 6, Local Laws.) In effect from date.

† See No. 1031, § 23, and No. 1032, Note 1.

ington, and entitled to elect the same officers as other counties are entitled to elect.

\* \* \* \* \*

§ 3. **Judicial Jurisdiction.**—SEC. 6. That the said county of Stevens be and the same hereby is attached to the county of Spokane for judicial purposes.

\* \* \* \* \*

**No. 1004.—AN ACT TO ANNEX THE COUNTY OF SPOKANE TO THE COUNTY OF STEVENS.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.,* That the county of Spokane is hereby annexed to Stevens, and the two counties hereafter shall compose but one county, to be known as the county of Stevens.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 19, 1864. (See Eleventh Reg. Sess. 1863-64, p. 70.) All inconsistent acts or parts of acts repealed. In effect from date.

**No. 1005.—AN ACT AUTHORIZING TERMS OF THE UNITED STATES DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT TO BE HELD IN THE COUNTY OF STEVENS.<sup>1</sup>**

§ 1. **Terms.**—SECTION 1. *Be it enacted, etc.,* That the judge of the First judicial district shall hold a term of the United States district court of and for said district, at the county seat of Stevens county, upon the first Monday of September of each year, which term shall continue for two weeks unless sooner adjourned.

§ 2. **Jurisdiction.**—SEC. 2. Said court shall have jurisdiction within said county in the same manner and to the same extent as is now had and exercised by the district court of the First judicial district, with the same right as to appeals, *certiorari* and writs of error as is now or may hereafter be provided by law.

§ 3. **Clerk.**—SEC. 3. The said district judge of the First judicial district shall appoint a clerk of the court, \* \* \* and said district court shall be a court of record.

§ 4. **Practice.**—SEC. 4. The various laws now in force and which may be hereafter enacted, regulating the practice and proceedings in civil actions and criminal prosecutions, shall govern the practice and proceedings in said district court.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 20, 1865. (See Twelfth Reg. Sess. 1864-65, p. 23.) In effect from date.

**No. 1006.—AN ACT TO DEFINE THE SOUTH BOUNDARY LINE OF STEVENS COUNTY.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the southern line of the county of Stevens shall be as follows: Commencing at the eastern boundary line of the Territory of Washington where it is intersected by Snake river; thence down said river to its junction with Columbia river; thence up said river to where it intersects the north line of Yakima county; thence due west to the summit of the Cascade mountains.

§ 2. **Repealing Clause.**—SEC. 2. All acts and parts of acts in conflict with said first section, and affixing a different line for said south boundary, be and the same are hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 48.) In effect from date.

**No. 1007.—AN ACT CREATING AND CONFERRING JURISDICTION UPON THE DISTRICT COURT OF STEVENS COUNTY.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and the same is hereby created and established within and for the county of Stevens, to be called the district court of Stevens county.

§ 2. **Jurisdiction.**—SEC. 2. The said district court shall have exclusive jurisdiction within said county of all matters and causes, except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the First judicial district holding terms at Colfax for the counties of Stevens and Whitman, with the same right of appeal, *certioria* [ *certiorari* ] and writs of error to the supreme court as is now provided and allowed by law.

\* \* \* \* \*

§ 3. **Clerk.**—SEC. 4. The said judge of the First judicial district shall appoint a clerk of said district court of Stevens county. \* \* \*

\* \* \* \* \*

§ 4. **Practice.**—SEC. 6. The various laws now in force and which may hereafter be enacted regulating the practice and proceedings in civil actions and criminal prosecutions in Territorial causes shall govern the practice and proceedings in said district court of Stevens county, except as herein otherwise provided.

§ 5. **Terms.**—SEC. 7. The regular terms of said district court of Stevens county shall be held on the Second Monday in August in each and every year, and each term shall be held for one week, unless sooner adjourned: *Provided*, That no term of said court shall be held until the second Monday in August, A. D. 1878.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 19, 1877. (See Sixth Blen. Sess. 1877, p. 378.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 1008.—AN ACT TO PROVIDE FOR THE APPOINTMENT OF A BOARD OF COUNTY COMMISSIONERS FOR STEVENS COUNTY.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, By an act of the legislative assembly of the Territory of Washington organizing Spokane county, approved October 30th, 1879,<sup>2</sup> the board of county commissioners of Stevens county, who now reside within the limits of the said county of Spokane, their offices as such commissioners for Stevens county have thereby become vacant, wherefore,

§ 2. **Governor to Appoint.**—SECTION 1. *Be it enacted, etc.*, That the governor of this Territory be and he is hereby authorized to appoint three qualified electors of the said county of Stevens to serve as such board of commissioners, who shall take the oath prescribed by law and perform the duties of such office until their successors are duly elected and qualified.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Blen. Sess. 1879, p. 238.) In effect from date.

<sup>2</sup> See No. 1002, *supra*.

**No. 1009.—AN ACT TO CREATE A DISTRICT COURT FOR THE COUNTY OF STEVENS, AND DEFINING THE JURISDICTION THEREOF.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and the same is hereby created and established within the county of Stevens, to be called and known as the district court for the county of Stevens.

<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Blen. Special Sess. 1881, p. 37.) In effect from date.



§ 2. **Jurisdiction.**—SEC. 2. That said district court shall have jurisdiction within said county of all matters, actions and causes except those in which the United States shall be a party, in the same manner and to the same extent as other district courts in the First judicial district have, and all proceedings therein shall be governed by and subject to the same laws, rules and regulations in all respects as other district courts in said district are.

§ 3. **Clerk.**—SEC. 3. The said district court shall be held by the judge of the First judicial district, and said judge shall appoint a clerk of said court. \* \* \*

§ 4. **Terms.**—SEC. 4. The regular terms of said court shall be held at the county seat of said county on the third Monday of October in each year, \* \* \*

\* \* \* \* \*

#### CHAPTER XXXIII.—THURSTON COUNTY.†

No. 1010.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT DEFINING COUNTY LINES IN THE TERRITORY OF WASHINGTON," APPROVED DECEMBER 2, 1869.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the county line between the counties of Thurston and Chehalis<sup>2</sup> be so changed as to run as follows: "To commence at the northwest corner of section 2, of township eighteen north, range four west; thence west on the township line to the northwest corner of section four; thence south to the southern boundary line of said township; thence east along the township line to the present county line.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 10, 1873. (See Fourth Bien. Sess. 1873, p. 482.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See Nos. 922 to 926, *supra*.

† See No. 957, § 2, *supra*, and 1031, § 12, *infra*, and No. 1032, Note 1.

#### CHAPTER XXXIV.—WAHKIAKUM COUNTY.†

No. 1011.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF WAHKIAKUM.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Washington Territory contained within the following boundaries, namely: Beginning at a point in the southern boundary line between said Territory and Oregon Territory due south from the southwest corner of the claim of Alexander S. Abernethy, and running thence due north to the southern line of Lewis county; thence westerly along said line to the eastern boundary line of Pacific county; thence south to the southern boundary line of Washington Territory, and thence easterly along said southern boundary line to the place of beginning, be organized into a

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 474.)

† See No. 1031, § 16, *infra*; and No. 1032, § 4.

county, to be known and called Wahkiakum county, and possess all the powers, rights and privileges of other counties in this Territory.

§ 2. **Judicial Powers.**—SEC. 2. For judicial purposes in all cases within the jurisdiction of the district court, said county shall remain attached to Cowlitz county; and the sheriff of Cowlitz county shall serve all process issuing out of the district court, in the same manner as if this county had not been organized.

§ 3. **County Seat.**—SEC. 3. The county seat of said county is hereby located at Cathlamet.

## CHAPTER XXXV.—WALLA WALLA COUNTY.†

### No. 1012.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF WALLA WALLA.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of Skamania county within the following described boundaries, to wit: Commencing at a point opposite the mouth of Deschutes river on the north bank of Columbia river; thence running north to forty-ninth parallel; thence along said parallel to summit of Rocky mountains; thence south along summit of Rocky mountains to forty-sixth degree of parallel; thence west along said forty-sixth parallel to where it crosses the Columbia river; thence along said Columbia river to place of beginning, be and the same is hereby constituted and organized into a separate county, to be known and called Walla-walla county.

§ 2. **Powers, etc.**—SEC. 2. That all the territory embraced within said boundaries shall compose a county for civil and military purposes, and shall be under the same laws, rules, restrictions and regulations as all other counties in this Territory and entitled to elect the same county officers as other counties are entitled to elect.

§ 3. **Judicial Powers.**—SEC. 3. The said county shall be attached to Skamania county for judicial purposes.

<sup>1</sup> No date given. (See First Reg. Sess. 1854, p. 472.)

† See No. 1031, § 21, *infra*, and No. 1032, § 91.

### No. 1013.—AN ACT CONFERRING JURISDICTION UPON THE DISTRICT COURT OF THE COUNTY OF WALLA-WALLA.<sup>1</sup>

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.,* That a court is hereby established at the county seat of Walla-walla county, to be called the district court of Walla-walla county.

§ 2. **Jurisdiction.**—SEC. 2. Said court shall have exclusive jurisdiction within the counties of Walla-walla and Spokane of all matters and causes, except those in which the United States is a party, in the same manner and to the same extent as is now had and exercised by the district court of the First judicial district, with the same right as to appeals, *certiorari*, and writs of error, from inferior courts, and to the supreme court as is now or hereafter may be provided by law.

§ 3. **Terms.**—SEC. 3. Said court shall be held by the judge of the First judicial district at the county seat of Walla-walla county, at such time, or times, as shall be prescribed by the judges of the supreme court.

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, p. 341.) All inconsistent acts and parts of acts repealed.

§ 4. **Clerk.**—SEC. 4. The said district judge of the First judicial district shall appoint a clerk of the court, \* \* \* and said district court shall be a court of record, \* \* \*

§ 5. **Practice.**—SEC. 5. The various laws now in force, and which may hereafter be enacted, regulating the practice and proceedings in civil actions, and in criminal prosecutions, shall govern the practice and proceedings in said district court of the county of Walla-walla.

\* \* \* \* \*

**No. 1014.—AN ACT EXTENDING THE NORTHERN BOUNDARY OF CLICKITAT COUNTY.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*

§ 2. **Boundaries.**—SEC. 2. *And be it further enacted,* That the west boundary of Walla Walla county be and is hereby extended as follows: Commencing at the northwest corner of Clickitat county, thence along the summit of the Cascade mountains to the 49th parallel.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 31, 1861. (See Eighth Reg. Sess. 1860-61, p. 59.) In effect from date.

**No. 1015.—AN ACT LEGALIZING THE ACTS OF THE COUNTY COMMISSIONERS OF WALLA WALLA COUNTY, W. T.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.,* That the acts of the county commissioners of Walla Walla county be and the same are hereby made legal, so far as the same apply to the appointing of county officers and the locating and establishing of roads.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 28, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 175.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 1016.—AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITLED AN ACT DEFINING COUNTY LINES IN THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Boundaries.**—SEC. 3. Walla Walla county shall be bounded as follows: Commencing at a point where the boundary line between Washington Territory and Oregon intersects the Columbia river; thence east along said line to where it intersects Snake river; thence down the main channel of said river to the Columbia; thence down the Columbia to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 18, 1868. (See First Bien. Sess., 1867-68, p. 59.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 1017.—AN ACT TO CHANGE THE LINE BETWEEN WALLA WALLA AND COLUMBIA COUNTIES.<sup>1</sup>**

§ 1. **Boundaries.**—*Be it enacted, etc.* SECTION 1. That the line now existing between Walla Walla and Columbia counties shall be so changed as to take township No. 8. range 38 east, from the territory of Columbia county, and the same shall become a part of Walla Walla county.

<sup>1</sup> Approved Nov. 13, 1879. (See Seventh Bien. Sess. 1879, p. 226.)

§ 2. **Taxes, 1879.**—SEC. 2. That all taxes for the year 1879 shall be paid into the treasury of, and belong to, Columbia county from said township; and the collector of taxes for Columbia county shall have the same power and authority to collect such taxes as he has by law for the collection of taxes in Columbia county.

§ 3. **Date in Effect.**—SEC. 3. This act to take effect from and after the first day of January, 1880.

## CHAPTER XXXVI.—WHATCOM COUNTY.†

### No. 1018.—AN ACT TO CREATE AND ORGANIZE WHATCOM COUNTY.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted etc.*, That all that portion of Island county embraced within the following described boundaries, to wit: Commencing at the north point of Perry's island, running due east to the summit of the Cascade mountains, thence north along the summit of the Cascade mountains to the boundary line of the United States; thence west along the boundary line to the Canal de Arrow, through the middle of the Canal de Arrow to the Straits of Juan de Fuca; thence through the Straits to the mouth of Ringgold's channel; thence across the mouth of Ringgold's channel to the place of beginning, be and the same is hereby constituted and organized into a separate county, to be known and called Whatcom county.

§ 2. **Powers, etc.**—SEC. 2. That the territory embraced within said boundaries shall compose a county for civil and military purposes, and shall be under the same laws, rules, regulations and restriction as all other counties in the Territory of Washington, and entitled to elect the same officers as other counties are entitled to elect.

\* \* \* \* \*

<sup>1</sup> (See First Reg. Sess. 1854, p. 475.) In effect from date, but no date given.  
† See No. 1031, § 3, *infra*, and No. 1032, Note 1.

### No. 1019.—AN ACT TO LOCATE THE COUNTY SEAT OF WHATCOM COUNTY.<sup>1</sup>

§ 1. **Site.**—SECTION 1. *Be it enacted, etc.*, That the county seat of Whatcom be and is hereby located at Whatcom, in said county, on the land claim of R. V. Peabody.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 13, 1855. (See Second Reg. Sess. 1854-55, p. 42.)

### No. 1020.—AN ACT TO ALTER THE BOUNDARY LINE OF WHATCOM COUNTY.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That the boundary lines of Whatcom county be established and defined as follows, to wit: Begin at the west end of Deception Passage; thence up said passage mid-channel in an easterly direction to the southern entrance of the Swinamish river; thence due east to the summit of the Cascade mountains; thence northerly along the summit of said mountains to the forty-ninth parallel of north latitude; thence west along said forty-ninth parallel to

<sup>1</sup> Passed Jan. 14, 1858. (See Fifth Reg. Sess. 1857-58, p. 53.)

the point dividing the American and British possessions in the Gulf of Georgia; thence along said boundary line to the Straits of Juan de Fuca; thence southerly to the place of beginning.

§ 2. **Repealing Clause.**—SEC. 2. That all acts or parts of acts conflicting with the first section of this act, be, and the same are hereby repealed.

**No. 1021.—AN ACT TO CORRECT AND TO CONSTRUER AN ACT ENTITLED AN ACT TO ALTER THE BOUNDARY LINE OF WHATCOM COUNTY.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*, That section first of the act to which this (is) a correction<sup>2</sup> be so construed as to read “the point dividing the American and British possessions in the Gulf of Georgia; thence through the middle of the Canal de Arrow to the Straits of Juan de Fuca; thence easterly to the place of beginning.

<sup>1</sup> Passed Jan. 31, 1859. (See Sixth Reg. Sess. 1858-59, p. 60.)

<sup>2</sup> See No. 1020, *supra*.

**No. 1022.—AN ACT TO CREATE AND CONFER JURISDICTION UPON THE DISTRICT COURT OF WHATCOM COUNTY.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and is hereby established within and for the county of Whatcom to be called the district court of Whatcom county.

§ 2. **Jurisdiction.**—SEC. 2. Said court shall have exclusive jurisdiction within said county of all matters and causes except those in which the United States is a party in the same manner and to the same extent as is now had and exercised by the district court of the Third judicial district holding terms at Steilacoom for the county of Pierce, with the same rights to appeals, *certiorari* and writs of error from inferior courts and to the supreme court as is now provided and allowed by law.

\* \* \* \* \*

§ 3. **Clerk.**—SEC. 4. Said judge shall appoint a clerk of the court.

\* \* \* \* \*

§ 4. **Court of Record.**—SEC. 6. \* \* \* Said district court shall be a court of record, \* \* \*

§ 5. **Practice.**—SEC. 7. All laws now in force and which may hereafter be enacted regulating the practice and proceedings in civil actions and in criminal prosecutions under the laws of the Territory shall govern the practice and proceedings in said district court of Whatcom county.

\* \* \* \* \*

§ 6. **Pending Actions.**—SEC. 12. All civil actions now pending in the district court of the Third judicial district holding terms at Port Townsend, wherein the subject of the actions or some part thereof is situated in said county of Whatcom according to section 48 of the civil practice act of 1873,<sup>2</sup> \* \* \* or wherein service of summons was had upon any defendant in said county of Whatcom, shall be transferred by order of the judge of said court to the district court of Whatcom county for trial, and shall there be heard and determined in the same manner as though said cause had been originally commenced in said district court of Whatcom county.

\* \* \* \* \*

§ 7. **Repealing Clause.**—SEC. 14. All acts and parts of acts in conflict with this act are hereby repealed.

§ 8. **Date in Effect.**—SEC. 15. This act shall take effect and be in force from and after the first day of January, 1878.

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 367.)

<sup>2</sup> See Nos. 112 and 141, § 2, *supra*.



**No. 1023.—AN ACT TO CREATE A DISTRICT COURT FOR THE COUNTY OF WHATCOM, AND DEFINING THE JURISDICTION THEREOF.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That a court be and the same is hereby created and established within the county of Whatcom, to be called and known as the district court for the county of Whatcom.

§ 2. **Jurisdiction.**—SEC. 2. That said district court shall have jurisdiction within said county of all matter, actions and causes except those in which the United States shall be a party, in the same manner and to the same extent as other district courts in the Third judicial district have; and all proceedings therein shall be governed by and subject to the same laws, rules and regulations, in all respects, as other district courts in said district are.

§ 3. **Clerk.**—SEC. 3. That said district court shall be held by the judge of the Third judicial district, and said judge shall appoint a clerk of said court, \* \* \*

§ 4. **Terms.**—SEC. 4. The regular terms of said court shall be held at Whatcom, the county seat of said county, on the second Tuesday in January and June in each year, and shall hold until the business of the term is transacted, unless sooner adjourned by the court.

§ 5. **Date in Effect, etc.**—SEC. 5. This act shall not be held to be repealed by implication because of any act passed at the present session of the legislative assembly, and shall take effect and be in force from and after the date of its approval.

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Blen. Sess. 1883, p. 50.)

CHAPTER XXXVII.—WHITMAN COUNTY.

**No. 1024.—AN ACT TO ORGANIZE THE COUNTY OF WHITMAN.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of the Territory of Washington included within the following limits be and the same is hereby organized into a county known as the county of Whitman, viz.: Commencing at a point on Snake river where the line dividing Idaho and Washington Territories strikes said river; thence down mid-channel of said river to its mouth; thence up mid-channel of the Columbia river to White Bluffs; thence in a northeasterly course to where the fifth standard parallel crosses Lougenbeal creek; thence east along said parallel to the dividing line between Idaho and Washington Territories; thence south along said line to place of beginning: *Provided*, That until the fifth standard parallel is established, the line from White Bluffs shall be in a northeasterly course to the south end of Big lake; thence in an easterly course to Stone house, near Rock lake; thence east to the dividing line between Idaho and Washington Territories; thence south along said line to the place of beginning.

\* \* \* \* \*

§ 2. **Taxes, 1871.**—SEC. 5. That all taxes assessed for the year A. D. 1871, shall be collected by the officers of and paid to the county treasurer of Stevens county.

\* \* \* \* \*

§ 3. **Judicial Purposes.**—SEC. 8. That said county of Whitman shall be united to Walla Walla county for judicial purposes.

<sup>1</sup> Approved Jan. 29, 1871. (See Third Blen. Sess. 1871, p. 134.)

§ 4. **Certain Laws in Force.**—SEC. 9. All laws of a general nature in regard to the counties of Walla Walla and Stevens, in this Territory, shall be applicable to said county.

§ 5. **Date in Effect.**—SEC. 10. This act shall take effect and be in force from and after the first day of January, A. D. 1872.

**No. 1025.—AN ACT TO BETTER DEFINE THE BOUNDARY LINE OF WHITMAN COUNTY, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the county of Whitman be bounded as follows: Commencing at a point where the section line between sections 21 and 28, township 14 north, of range 27 east Willamette meridian, Washington Territory, strikes the main body of the Columbia river on the west side of the island; thence east on said section line to township line between ranges 27 and 28 east; thence north on said range line to the fourth standard parallel; thence east on said parallel to the Columbia guide meridian; thence north to fifth standard parallel; thence east on said parallel to the boundary line between Idaho and Washington Territories; thence south on said boundary line to the mid-channel of Snake river; thence down the mid-channel of Snake river to mid-channel of Columbia river; thence up the mid-channel of Columbia river to a point opposite the place of beginning; thence east to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 189.) All conflicting acts and parts of acts repealed. In effect from date.

**CHAPTER XXXVIII.—YAKIMA COUNTY.†**

**No. 1026.—AN ACT TO CREATE AND ORGANIZE THE COUNTY OF FERGUSON.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all that portion of Washington Territory lying north of the summit of the Simcoe range of mountains, bounded on the west by the summit of the Cascade range and the counties of Walla Walla and Spokane on the east, and the Wenatchee river on the north, be and the same is hereby organized into a county called Ferguson.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 23, 1863. (See Tenth Reg. Sess. 1862-63, p. 4, Local Laws.) In effect from date.

† See No. 1031, § 22, *infra*; and No. 1032, § 8.

**No. 1027.—AN ACT REPEALING AN ACT ENTITLED "AN ACT TO CREATE AND ORGANIZE THE COUNTY OF FERGUSON," PASSED JANUARY 23, 1863.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the act of the Legislative Assembly creating and organizing the county of Ferguson, passed on the 23d day of January, Anno Domini 1863, be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 18, 1865. (See Twelfth Reg. Sess. 1864-65, p. 47.) In effect from date.

**No. 1028.—AN ACT ESTABLISHING AND ORGANIZING THE COUNTY OF YAKIMA.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.*, That all the territory heretofore embraced in the county of Ferguson lying and being south of a line running due west from a point two miles above the lower steamboat landing at Priest's Rapids, on the Columbia river, to the summit of the Cascade mountains, be and the same is hereby constituted an organized into a separate county, to be known and called Yakima county.

§ 2. **Powers, etc.**—SEC. 2. That said territory shall compose a county for civil and military purposes, and be subject to all the laws relating to counties, and be entitled to elect the same officers as other counties are entitled to elect.

\* \* \* \* \*

§ 3. **Judicial Purposes.**—SEC. 5. That the said county of Yakima is attached for judicial purposes and for the election of members of the legislative assembly, to the county of Stevens.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 47.) In effect from date.

**No. 1029.—AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITLED AN ACT DEFINING COUNTY LINES IN THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Boundaries.**—SEC. 2. Yakima county shall be bounded as follows: Commencing at the northwest corner of Klikitat county; thence easterly along the line of said county to the Columbia river; thence up said river to the Wenatchee; thence up the Wenatchee to the summit of the mountains; thence southerly to the place of beginning.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 18, 1868. (See First Bien. Sess., 1867-68, p. 59.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 1030.—AN ACT TO CHANGE THE BOUNDARIES OF YAKIMA AND CLICKITAT COUNTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the south boundary of Yakima county be amended so as to read: "Commencing at the northwest corner of township number six north, of range number twelve east; thence east along the north boundary of township number six north until said line intersects the Columbia river; thence north up the mid-channel of said river to the mouth of the Yakima river.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 14, 1873. (See Fourth Bien Sess. 1873, p. 571.) In effect from date.

## CHAPTER XXXIX.—COUNTIES IN GENERAL.

No. 1031.—AN ACT DEFINING COUNTY LINES IN THE TERRITORY OF WASHINGTON.<sup>1</sup>

§ 1. **Preamble.**—WHEREAS, In consequence of the frequent amendments heretofore made regarding county lines, much doubt exists as to the proper boundaries of counties, making difficulty to courts and officers as to the questions of jurisdiction, and in order to remove an uncertainty, it becomes necessary that such county lines should be accurately defined: therefore,

§ 2. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the following shall be the organized counties of Washington Territory, and the respective boundaries thereof, that is to say:

§ 3. **Whatcom.**—Whatcom county shall be bounded as follows: Commencing at the west end of Deception Passage; thence up said Passage mid-channel in an easterly direction to the southern entrance of Swinamish slough or river; thence following the meanderings of the beach easterly to where the eighth standard parallel strikes the beach; thence due east along said parallel to the summit of the Cascade mountains; thence northerly along the summit of said mountains to the forty-ninth parallel of north latitude; thence west along said forty-ninth parallel to the point dividing the American and British possessions in the Gulf of Georgia; thence along said boundary line to the Strait of Juan de Fuca; thence southerly to the place of beginning.<sup>2</sup>

§ 4. **Snohomish.**—Snohomish county shall be bounded as follows: Commencing at the southwest corner of Whatcom county; thence east to the summit of the Cascade mountains; thence southerly along said summit, to the northeast corner of King county, it being a point due east of the northeast corner of township number twenty-six north, range four east; thence due west along the north line of King county to Admiralty Inlet; thence northerly along the channel of said inlet to the entrance of Port Susan, including Gedney Island; thence up the main channel of Port Susan to the mouth of Steilaquamish river; thence northwesterly through the channel of the slough at the head of Camano Island; thence northerly to the place of beginning.<sup>3</sup>

§ 5. **Jefferson.**—Jefferson county shall be bounded as follows: Commencing at the middle of the channel of Admiralty Inlet due north of Point Wilson; thence westerly along the Straits of Fuca to the north of Protection Island to a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Point Discovery Bay; thence following up the middle of said channel to a point directly east of the mouth of Eagle Creek; thence west to the mouth of Eagle creek; thence one mile west from the mouth of said creek; thence south to the summit of the Olympic range of mountains, it being the southeast corner of Clallam county, on the north boundary line of township twenty-seven north, range two west; thence west to the Pacific Ocean; thence southerly along the coast to the mouth of Queets; thence east to the middle of the channel of Hood's Canal; thence northerly along said channel to the middle of the channel of Admiralty Inlet; thence northerly following the channel of said inlet to a point due north of Point Wilson and place of beginning.<sup>4</sup>

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 41.)

<sup>2</sup> See Nos. 1018 to 1023, *supra*.

<sup>3</sup> See Nos. 994 to 997, *supra*.

<sup>4</sup> See Nos. 944 to 946<sup>1</sup>/<sub>2</sub>, *supra*.

§ 6. **Olalm.**—Clalm county shall be bounded as follows: Commencing at the northwest corner of Jefferson county, at a point opposite the middle of the channel between Protection Island and Diamond Point on the west of Port Discovery Bay; thence following up the middle of said channel to a point directly east of the mouth of Eagle creek; thence west to the mouth of Eagle creek; thence one mile west from the mouth of said creek; thence south to the north boundary line of township twenty-seven north, range two west; thence west to the seacoast; thence following up the said coast to Cape Flattery and to the Strait of Juan de Fuca; thence easterly along the coast of said Strait of Juan de Fuca to the place of beginning.<sup>5</sup>

§ 7. **Mason.**—Mason county shall be bounded as follows: Commencing in the middle of the main channel of Puget Sound, opposite the mouth of Case's Inlet; thence westerly along the main channel up to the head of Totten's Inlet; thence south to the southwest corner of section thirty-three, in township number nineteen north, range three west; thence west twenty miles to the east line of Chehalis county; thence north thirty-four miles to the south boundary of Jefferson county; thence due east to the main channel of Hood's Canal; thence southerly along the middle of said channel; thence to a point due west of the meander corner of sections twelve and thirteen, township twenty-two north, range two west; thence east to the middle of Case's Inlet; thence down to the middle of the main channel of said inlet to the place of beginning.<sup>6</sup>

§ 8. **Island.**—Island county to be composed of Whidbey and Camano islands.<sup>7</sup>

§ 9. **Kitsap.**—Kitsap county shall be bounded as follows: Commencing the middle of Colvo's Passage, at a point due east of the meander post between sections nine and sixteen, on west side of Colvo's Passage, in township number twenty-two north, range two east; thence west on the north boundary line of sections sixteen, seventeen and eighteen, to the west boundary of the township; thence west on the north boundary line of sections thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, in township number twenty-two north, range one east; thence on the north boundary line of sections thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, township number twenty-two north, range one west; thence continue due west to the middle of the channel of Hood's Canal; thence along said channel to the middle of the main channel of Admiralty Inlet; thence following said channel up to the middle of Colvo's Passage; thence following the channel of said passage to the place beginning.<sup>8</sup>

§ 10. **King.**—King county shall be bounded as follows: Commencing where the fifth standard parallel line strikes the main land, near the head of Commencement Bay; thence east along said parallel line to the middle of the main channel of White river; thence up the middle of the main channel of White river to the forks of White river and Green Water; thence up the main channel of Green Water to the summit of the Cascade mountains; thence northerly along said summit to the southeast corner of township number twenty-seven north, range eleven east, it being a point due east of the northeast corner of township twenty-six, range four east; thence west to Admiralty Inlet; thence southerly along the main channels of Admiralty Inlet, Colvo's Passage and Commencement Bay to the fifth standard parallel and place of beginning.<sup>9</sup>

§ 11. **Pierce.**—Pierce county shall be bounded as follows: Commencing at the mouth, mid-channel, of the Nesqually river; thence following the main channel of said river to its head; thence due east to the summit

<sup>5</sup> See No. 927, *supra*.

<sup>6</sup> See Nos. 961 to 968, *supra*.

<sup>7</sup> See Nos. 942 to 943, *supra*.

<sup>8</sup> See Nos. 948 to 949, *supra*.

<sup>9</sup> See No. 947, *supra*.



of the Cascade mountains; thence northerly along said summit to the head of Green Water; thence westerly down said river to its confluence with White river; thence down the main channel of White river to the intersection of the fifth standard parallel; thence west along said line to the head of Commencement Bay; thence northerly along the main channel of said bay to the south entrance of Colvo's Passage; thence down the channel of said passage to the northeast corner of section sixteen, in township number twenty-two north, range two east; thence west to the northeast corner of section sixteen, in township number twenty-two north, range one west; thence southerly along the channels of Case's Inlet and Puget Sound to the middle of the mouth of the Nisqually river and place of beginning.<sup>10</sup>

§ 12. **Thurston.**—Thurston county shall be bounded as follows: Commencing at the southeast corner of section thirty-four, in township number nineteen north, range four west; thence east on township line to the southeast corner of section thirty-two, in township number nineteen north, range three west, thence north to the middle of the channel of Totten's inlet; thence along said channel to the waters of Puget Sound, intersecting the line in channel of Puget Sound, west of the southern portion of Squaxen reservation; thence following said channel to the mouth of the Nesqually river; thence up mid-channel of said river to a point where it strikes the northern boundary of Lewis county; thence due west to the northwest corner of section twenty-six, in township number fifteen north, range four west; thence north to the south-east corner of section thirty-four, in township number nineteen north, range four west, and place of beginning.<sup>11</sup>

§ 13. **Lewis.**—Lewis county shall be bounded as follows: Commencing at the northwest corner of section twenty-six, in township number fifteen north, range four west; thence south to the north boundary line of Cowlitz county; thence east to the west boundary of Skamania county; thence north nine miles to the northeast corner of section twenty-four, in township number twelve north, range four east; thence east to the summit of the Cascade mountains; thence northerly along said summit to the head of Nesqually river; thence westerly down the channel of said river to the southeast corner of Thurston county; thence due west to the place of beginning.<sup>12</sup>

§ 14. **Clarke.**—Clarke county shall be bounded as follows: Commencing on the Columbia river, on the south bank of the Kalama river at its mouth; thence due east six miles to the Willamette meridian; thence north to the northeast corner of township number ten north, range one west; thence due east twenty-four miles, to the western line of Skamania county; thence due south to the Columbia river; thence with the main channel of said river to the mouth of Kalama river and place of beginning.<sup>13</sup>

§ 15. **Cowlitz.**—Cowlitz county shall be bounded as follows: Commencing at the southwest corner of A. S. Abernethy's land claim on the Columbia river; thence up said river to the south bank of the Kalama river; thence east to the Willamette meridian; thence north to the northeast corner of township number ten north, range one west; thence west to the northeast corner of Wahkiakum county; thence south to the Columbia river and place of beginning.<sup>14</sup>

§ 16. **Wahkiakum.**—Wahkiakum county shall be bounded as follows: Commencing at the southeast corner of Pacific county on the Columbia river; thence up mid-channel of said river to the southwest corner of

<sup>10</sup> See Nos. 975 to 984, *supra*.

<sup>11</sup> See No. 1010, *supra*.

<sup>12</sup> See Nos. 956 to 959, *supra*.

<sup>13</sup> See Nos. 928 to 930, *supra*.

<sup>14</sup> See Nos. 933 to 936, *supra*.

Cowlitz county; thence north to the northwest corner of Cowlitz county; thence west to the east boundary of Pacific county; thence south to the Columbia river and place of beginning.<sup>15</sup>

§ 17. **Pacific.**—Pacific county shall be bounded as follows: Commencing at the southwest corner of Wahkiakum county on the Columbia river; thence north to the northwest corner of section thirty in township number fifteen north, range six west; thence west to the sea coast; thence southerly, including Shoalwater Bay, to Cape Disappointment; thence up mid-channel of the Columbia river to the place of beginning.<sup>16</sup>

§ 18. **Chehalis.**—Chehalis county shall be bounded as follows: Commencing at the northwest corner of Wahkiakum county; thence north to the northeast corner of Pacific county; thence west to the sea coast; thence northerly along said coast, including Gray's Harbor, to the mouth of Queets creek or river; thence east thirty-six miles to the northwest corner of Mason county; thence south to the northeast corner of township number eighteen north, range seven west; thence east sixteen miles to the southeast corner of section thirty-four, in township number nineteen north, range four west; thence south to the north line of Wahkiakum county; thence west to the place of beginning.<sup>17</sup>

§ 19. **Skamania.**—Skamania county shall be bounded as follows: Commencing on the Columbia river at a point where range line number four east strikes said river, it being nearly opposite Rooster rock; thence north to the southeast corner of section thirteen, in township number twelve north, range four east; thence east to a point north of the northeast corner of township number four north, range twelve east; thence south to the northeast corner of township number four north, range twelve east on the first standard parallel; thence west following said line six miles to the northwest corner of township number four north, range twelve east; thence south to the middle of the channel of the Columbia river; thence along the channel of said river to the place of beginning.<sup>18</sup>

§ 20. **Klickitat.**—Klickitat county shall be bounded as follows: Commencing in the middle of the Columbia river five miles below the mouth of the Klickitat river; thence north to the first standard parallel; thence east six miles to the northeast corner of township number four north, range twelve east; thence north to the summit of the mountains, the divide between the waters of the Klickitat and Yakima rivers; thence east along said divide to a point north of the mouth of Rock creek on the Columbia river; thence south to the middle of the Columbia river; thence along the channel of said river to the place of beginning.<sup>19</sup>

§ 21. **Walla Walla.**—Walla-walla county shall be bounded as follows: Commencing where the boundary line between Washington and Oregon intersects or strikes Snake river; thence down the main channel of said river to where it intersects the second standard parallel; thence west on said line to the southeast corner of section thirty-four, in township number nine north, range twenty-two east; thence south to the Columbia river; thence up mid-channel of said river to where the boundary line between Washington Territory and Oregon strikes said river; thence east on said boundary line to Snake river and place of beginning.<sup>20</sup>

§ 22. **Yakima.**—Yakima county shall be bounded as follows: Commencing on the Columbia river where it crosses the second standard parallel; thence up mid-channel of said river to the mouth of the Wenatchee river; thence up the main channel of said river to the summit of the Cascade mountains; thence southerly along said summit to the third

<sup>15</sup> See No. 1011, *supra*.

<sup>16</sup> See Nos. 970 to 974, *supra*.

<sup>17</sup> See Nos. 922 to 926, *supra*.

<sup>18</sup> See Nos. 989 to 992, *supra*.

<sup>19</sup> See Nos. 953 to 955, *supra*.

<sup>20</sup> See Nos. 1012 to 1017, *supra*.

standard parallel; thence east along said line to the northeast corner of Klickitat county; thence south to the second standard parallel; thence east along said line to the place of beginning.<sup>21</sup>

§ 23. **Stevens.**—Stevens county shall be bounded as follows: Commencing at the point of intersection of the forty-ninth parallel of latitude and the boundary line between Washington and Idaho Territories; thence west with said parallel to the summit of the Cascade mountains; thence southerly with said summit to the head waters of the Wenatchee river; thence down the channel of said river to the Columbia river; thence down mid-channel of said river to the mouth of Snake river; thence up mid-channel of said river to the boundary line between Washington and Idaho Territories; thence north on said line to the forty-ninth parallel of latitude and place of beginning.<sup>22</sup>

§ 24. **Repealing Clause.**—SEC. 2. That all acts and parts of acts heretofore passed ascribing different boundaries to counties wherein they conflict with the county lines hereinbefore set forth be and the same are hereby repealed, and the county lines of the said counties of this Territory shall be as herein prescribed.

<sup>21</sup> See Nos. 1026 to 1030, *supra*.

<sup>22</sup> See Nos. 1003 to 1009, *supra*.

**No. 1032.—AN ACT DEFINING COUNTY LINES IN THE TERRITORY OF WASHINGTON.<sup>1</sup>**

\* \* \* \* \*

§ 1. **Island.**—Island county shall contain Whidby and Camano Islands, and such other islands and territory as shall be embraced within the area of the lines extended on all sides to close with the boundary lines of surrounding counties and not included in said surrounding counties.<sup>2</sup>

\* \* \* \* \*

§ 2. **Kitsap.**—Kitsap county shall be bounded as follows: Commencing in the middle of Colvo's Passage, at a point due east of the meander post between sections nine and sixteen, on west side of Colvo's Passage, in township number twenty-two north, range two east; thence west on the north boundary line of section sixteen, seventeen and eighteen, to the head of Case's Inlet; thence north to a point that will intersect a line drawn due east and west through the centre of township number twenty-three north, of range three west; thence continue due west to the middle of the channel of Hood's Canal; thence along said channel to the middle of the main channel of Admiralty Inlet; thence following said channel up to the middle of Colvo's Passage; thence following the channel of said passage to the place of beginning.<sup>3</sup>

\* \* \* \* \*

§ 3. **Lewis.**—Lewis county shall be bounded as follows: Commencing at the northeast corner of Pacific county; thence south to the third standard parallel; thence east along said standard parallel to a point due south of the southwest corner of Thurston county; thence due south to the north boundary line of Cowlitz county; thence east to the west boundary of Skamania county; thence north nine miles to the northeast corner of section twenty-four, in township twelve north, of range four east; thence east to the summit of the Cascade mountains; thence northerly

<sup>1</sup> Approved Dec. 2, 1869. (See Ninth Bien. Sess. 1869, p. 291.) The provisions of this act relative to the counties of Whatcom, Snohomish, Jefferson, Clallam, Mason, King, Pierce, Thurston, Clarke, Cowlitz, Pacific and Stevens are *verbatim*, respectively, as §§ 3, 4, 5, 6, 7, 10, 11, 12, 14, 15, 17 and 23, of No. 1031, *supra*. The preamble to this No. and the first paragraph of Section 1, are *verbatim* as §§ 1 and 2 of said No. 1031.

<sup>2</sup> See Nos. 942 to 943, *supra*.

<sup>3</sup> See Nos. 948 to 949, *supra*.

along said summit to the head of Nisqually river; thence westerly down the channel of said river to the southeast corner of Thurston county; thence west to the place of beginning.<sup>4</sup>

\* \* \* \* \*

§ 4. **Wahkiakum.**—Wahkiakum county shall be bounded as follows: Commencing at the southeast corner of Pacific county on the Columbia river; thence up mid-channel of said river to the southwest corner of Cowlitz county; thence north to the northwest corner of Cowlitz county; thence east to the southwest corner of Lewis county; thence due north to the third standard parallel; thence west to the eastern boundary of Pacific county; thence south to the place of beginning.<sup>5</sup>

\* \* \* \* \*

§ 5. **Chehalis.**—Chehalis county shall be bounded as follows: Commencing at the northeast corner of Pacific county; thence west to the sea coast; thence northerly along said coast, including Gray's Harbor, to the mouth of Queet's creek or river; thence east thirty-six miles to the northwest corner of Mason county; thence south to the northeast corner of township number eighteen north, range seven west; thence east sixteen miles to the southeast corner of section thirty-four, in township number nineteen north, range four west; thence south to a point due east of the northeast corner of Pacific county; thence west to the place of beginning.<sup>6</sup>

§ 6. **Skamania.**—Skamania county shall be bounded as follows: Commencing on the Columbia river at a point where range line number four east strikes said river; thence north to the southeast corner of section thirteen, in township number twelve north, range four east; thence east to a point due north of the mouth of White Salmon; thence south to the middle of the channel of the Columbia river; thence along the channel of said river to the place of beginning.<sup>7</sup>

§ 7. **Klickitat.**—Clickitat county shall be bounded as follows: Commencing at a point mid-channel of the Columbia river opposite the mouth of the White Salmon; thence running north to a point due west of the mount Adams; thence easterly to the waters of the Pisco river; thence down its waters mid-channel to its junction with the waters of the Topenish; thence down its course mid-channel to the Yakima; thence down the waters of the Yakima mid-channel to the waters of the Columbia river; thence down the Columbia river mid-channel to the place of beginning.<sup>8</sup>

§ 8. **Yakima.**—Yakima county shall be bounded as follows: Commencing at a point on the southern boundary of Lewis county due north of the mouth of the White Salmon; thence due south to a point due west of Mount Adams, it being the northwest corner of Clickitat county; thence easterly to the headwaters of the Pisco; thence down the Pisco to the Toponish; thence down the Toponish to the Yakima; thence down the Yakima to the Columbia river; thence up said Columbia river to the mouth of the Wenachee river; thence up the Wenachee to the summit of the mountains; thence southerly to the southeast corner of Lewis county; thence due west to the place of beginning.<sup>9</sup>

§ 9. **Walla Walla.**—Walla Walla county shall be bounded as follows: Commencing at a point where the boundary line between Washington Territory and Oregon intersects the Columbia river; thence east along said line until to where it intersects Snake river; thence down the main channel of said river to the Columbia; thence down the Columbia to the place of beginning.<sup>10</sup>

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<sup>4</sup> See Nos. 956 to 959, *supra*.

<sup>5</sup> See No. 1011, *supra*.

<sup>6</sup> See Nos. 922 to 926, *supra*.

<sup>7</sup> See Nos. 989 to 992, *supra*.

<sup>8</sup> See Nos. 953 to 955, *supra*.

<sup>9</sup> See Nos. 1026 to 1030, *supra*.

<sup>10</sup> See Nos. 1012 to 1017, *supra*.

§ 10. **Quillehuyte Abolished.**—SEC. 2. The act entitled “an act to create and organize the county of Quillehuyte,” approved January 29, 1868, is hereby repealed, and the territory erected into said county is hereby declared to revert to the counties of Jefferson and Clalam, as bounded in this act.<sup>11</sup>

§ 11. **Repealing Clause.**—SEC. 3. That all acts and parts of acts heretofore passed ascribing different boundaries to counties, be and the same are hereby repealed, and the county lines of said counties of this Territory shall be as herein prescribed.

<sup>11</sup> See No. 985, *supra*.

## TITLE IV.—DIVORCES.

### CHAPTER I.—ALLEN.

#### No. 1033.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN G. W. L. ALLEN AND ESTHER ALLEN.<sup>1</sup>

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony existing between G. W. L. Allen and Esther Allen be and they are hereby dissolved.<sup>2 3 4</sup>

§ 2. **Change of Name.**—SEC. 2. The said Esther Allen is hereby restored to her maiden name, Esther Packwood.

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<sup>1</sup> Passed Jan. 17, 1862. (See 9th Reg. Sess. 1861-62, p. 89.) In effect from date.

<sup>2</sup> Nos. 1054, 1061, 1068, 1074, 1075, 1080, 1087, 1088, 1089, 1101, 1103, *infra*, are *verbatim* as this §, except the names of the parties are changed to conform to the title of each number, respectively.

<sup>3</sup> Nos. 1070, 1085, 1086, 1093, *infra*, are *verbatim* as this §, except the names of the parties are changed to conform to the title of each number, respectively, except instead of “matrimony existing” read “matrimony now existing.”

<sup>4</sup> Nos. 1035, 1036, 1037, 1038, 1041, 1043, 1044, 1045, 1047, 1052, 1053, 1055, 1056, 1057, 1058, 1059, 1060, 1063, 1064, 1066, 1069, 1071, 1072, 1076, 1077, 1078, 1079, 1081, 1091, 1092, 1094, 1095, 1096, 1097, 1098, 1102, *infra*, are *verbatim* as this §, except the names of the parties are changed to conform to the title of each number, respectively, and except instead of the words “matrimony existing” read “matrimony heretofore existing.”

### CHAPTER II.—ANDERSON.

#### No. 1034.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN ROBERT ANDERSON AND SARAH EMMA ANDERSON.<sup>1</sup>

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony existing between Robert Anderson and Sarah Emma Anderson be and they are hereby dissolved.

§ 2. **Change of Name.**—SEC. 2. The name of Sarah Emma Anderson is hereby changed to that of Sarah Emma Relyea.

<sup>1</sup> Passed Jan. 31, 1861. (See 8th Reg. Sess. 1860-61, p. 103.)



CHAPTER III.—AVERY.

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**No. 1035.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN THOMAS W. AVERY AND ELIZABETH AVERY, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 15, 1861. (See 8th Reg. Sess. 1860-61, p. 93.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER IV.—BALDWIN.

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**No. 1036.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN SAMUEL M. BALDWIN AND RACHEL MINERVA BALDWIN.<sup>1</sup>**

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<sup>1</sup> Passed Dec. 21, 1860. (See Eighth Reg. Sess. 1860-61, p. 101.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER V.—BIRD.

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**No. 1037.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN CHARLES J. BIRD AND WHELOSHBAW EMTUTS BIRD.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 26, 1858. (See Fifth Reg. Sess. 1857-58, p. 54.) See also No. 1033, *supra*, Note 4.

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CHAPTER VI.—BLAKE.

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**No. 1038.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN RICHARD BLAKE AND LAUHALLAU BLAKE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 31, 1861. (See Eighth Reg. Sess. 1860-61, p. 132.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER VII.—BOGGS.

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**No. 1039.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN ISAAC BOGGS AND MINA A. BOGGS, HIS WIFE.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—*Be it enacted, etc.*, That the bonds of matrimony existing between Isaac Boggs and Mina A. Boggs, his wife, be and the same are hereby dissolved.

§ 2. **Change of Name.**—SEC. 2. *And be it further enacted*, That the said Mina A. Boggs be and she is hereby restored her maiden name, Mina A. Kimball.

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<sup>1</sup> Passed Jan. 18, 1861. (See Eighth Reg. Sess. 1860-61, p. 110.) In effect from date.

## CHAPTER VIII.—BORDWELL.

**No. 1040.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN D. D. BORDWELL AND MARY ANN BORDWELL, HIS WIFE.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—*Be it enacted, etc.*, That the bonds of matrimony heretofore existing between D. D. Bordwell and Mary Ann Bordwell, his wife, be and the same are hereby dissolved.

§ 2. **Custody of Children.**—SEC. 2. And that the said Mary Ann Bordwell shall have sole custody and control of her children, to wit: Catharine Bordwell, Rebecca Bordwell, H. D. Bordwell and Martha Jane Bordwell.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 21, 1861. (See Eighth Reg. Sess. 1860-61, p. 102.) In effect from date.

## CHAPTER IX.—BOREN.

**No. 1041.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN CARSON D. BOREN AND MARY, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Dec. 17, 1861. (See Eighth Reg. Sess. 1860-61, p. 74.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER X.—BRADLY.

**No. 1042.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN HENRY E. BRADLY AND ESTHER, HIS WIFE.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between Henry E. Bradly and Esther, his wife, be and the same are hereby dissolved.

§ 2. **Custody of Children.**—SEC. 2. That the care and custody of Toby Bradly, infant son of said Henry E. Bradly and his wife, be and the same hereby is assigned to Esther Bradly.

§ 3. **Change of Name.**—SEC. 3. Said Esther Bradly shall be allowed to take as her name hereafter that of Esther Tallentire.

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<sup>1</sup> Passed Jan. 15, 1862. (See Ninth Reg. Sess. 1861-62, p. 86.) In effect from date.

## CHAPTER XI.—BROWN.

**No. 1043.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY NOW EXISTING BETWEEN JARED C. BROWN AND JOSEPHINE BROWN, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 141, Local Laws.) See also No. 1033, *supra*, Note 4. In effect from date.

CHAPTER XII.—CANBE.

**No. 1044.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN THOMAS CANBE AND NAOMI CANBE.<sup>1</sup>**

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<sup>1</sup> Passed Dec. 21, 1855. (See Third Reg. Sess. 1855-56, p. 21.) See also No. 1033, *supra*, Note 4.

CHAPTER XIII.—CANTWELL.

**No. 1045.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN JOHN CANTWELL AND ANN CANTWELL, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 14, 1861. (See Eighth Reg. Sess. 1860-61, p. 92.) See also No. 1033, *supra*, Note 4.

CHAPTER XIV.—CAWLEY.

**No. 1046.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN JAMES CAWLEY AND JOANNA CAWLEY.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—*Be it enacted, etc.*—That the bonds of matrimony existing between James Cawley and Joanna Cawley be and they are hereby dissolved.

§ 2. **Change of Name.**—SEC. 2. The name of the said Joanna Cawley is hereby changed to that of Joanna McCarty.

<sup>1</sup> Passed Jan. 31, 1861. (See Eighth Reg. Sess. 1860-61, p. 131.)

CHAPTER XV.—COLLINS.

**No. 1047.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN L. M. COLLINS AND DINNA COLLINS.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 17, 1860. (See Seventh Reg. Sess. 1859-60, p. 477.) See also No. 1033, *supra*, Note 4. In effect from date.

CHAPTER XVI.—CONNELLY.

**No. 1048.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN OWEN CONNELLY AND SARAH CONNELLY, AND TO RESTORE THE SAID SARAH TO HER MAIDEN NAME.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony existing between Owen Connelly and Sarah Con-

<sup>1</sup> Passed Dec. 15, 1860. (See Eighth Reg. Sess. 1860-61, p. 78.)

nelly be and they are hereby dissolved, and that the said Sarah have the custody of her daughter, Ann Connelly.

§ 2. **Change of Name.**—SEC. 2. The said Sarah Connelly is hereby restored to her maiden name, Sarah Lancaster.

#### CHAPTER XVII.—COOPER.

**No. 1049.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN GEORGE I. COOPER AND LAURA COOPER, HIS WIFE.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.,* That the bonds of matrimony existing between George I. Cooper and Laura Cooper, his wife, be and they are hereby dissolved.

§ 2. **Change of Name.**—SEC. 2. The said Laura Cooper is hereby restored to her maiden name, to wit: Laura Riggs.

<sup>1</sup> Passed Jan. 10, 1862. (See Ninth Reg. Sess. 1861-62, p. 74.)

#### CHAPTER XVIII.—COYLE.

**No. 1050.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN PATRICK COYLE AND ANN COYLE, HIS WIFE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the bonds of matrimony heretofore existing between Patrick Coyle and Ann Coyle be and the same are hereby dissolved, and the said Ann Coyle shall have the custody of their child, John Coyle, a minor of ten years of age.

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<sup>1</sup> Passed Dec. 14, 1860. (See Eighth Reg. Sess. 1860-61, p. 71.) In effect from date.

#### CHAPTER XIX.—CUNNINGHAM.

**No. 1051.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN PHILANDER CUNNINGHAM AND HENRIETTA CUNNINGHAM.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.,* That the bonds of matrimony existing between Philander Cunningham and Henrietta Cunningham, be and the same are hereby dissolved.

§ 2. **Change of Name.**—SEC. 2. The said Henrietta Cunningham is hereby restored to her maiden, to wit: "Henrietta Redin."

<sup>1</sup> Passed Jan. 16, 1862. (See Ninth Reg. Sess. 1861-62, p. 86.)

#### CHAPTER XX.—DAVIS.

**No. 1052.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN WILLIAM W. DAVIS AND ALICE DAVIS.<sup>1</sup>**

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<sup>1</sup> Passed Dec. 13, 1859. (See Seventh Reg. Sess. 1859-60, p. 474.) See also No. 1033, *supra*, Note 4. In effect from date.

CHAPTER XXI.—DE SHAW.

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**No. 1053.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN JOHN DE SHAW AND AGNES DE SHAW, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 21, 1861. (See Eighth Reg. Sess. 1860-61, p. 103.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER XXII.—DONNELLY.

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**No. 1054.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN WILLIAM DONNELLY AND BRIDGET DONELLY.<sup>1</sup>**

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<sup>1</sup> Passed Dec. 20, 1859. (See Seventh Reg. Sess. 1859-60, p. 475.) See also No. 1033, *supra*, Note 2. In effect from date.

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CHAPTER XXIII.—EASTABROOK.

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**No. 1055.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN GEO. T. EASTABROOK AND HANNA L. EASTABROOK.<sup>1</sup>**

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<sup>1</sup> Passed Dec. 22, 1854. (See First Reg. Sess. 1854-55, p. 61.) See also No. 1033, *supra*, Note 4.

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CHAPTER XXIV.—ENSIGN.

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**No. 1056.—AN ACT DISSOLVING THE BONDS OF MATRIMONY EXISTING BETWEEN LEWIS ENSIGN AND SUSAN B. ENSIGN.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 16, 1856. (See Third Reg. Sess. 1855-56, p. 20.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER XXV.—FORD.

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**No. 1057.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN SIDNEY S. FORD AND JOSIPHENE FORD.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 7, 1860. (See Seventh Reg. Sess. 1859-60, p. 475.) See also No. 1033, *supra*, Note 4. In effect from date.



## CHAPTER XXVI.—FORD.

**No. 1058.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN THOMAS FORD AND MARY FORD, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 141, Local Laws.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER XXVII.—FULLER.

**No. 1059.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN WM. H. FULLER AND HIS WIFE, LUKE KAWAY FULLER.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 21, 1861. (See Eighth Reg. Sess. 1860-61, p. 102.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER XXVIII.—GREEN.

**No. 1060.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN CHARLES GREEN AND CATHERINE WAPARUSA GREEN.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 9, 1860. (See Seventh Reg. Sess. 1859-60, p. 475.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER XXIX.—HAMLIN.

**No. 1061.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN FREDERICK H. HAMLIN AND ELIZA E. HAMLIN, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 26, 1863. (See Tenth Reg. Sess. 1862-63, p. 142, Local Laws.) See also No. 1033, *supra*, Note 2. In effect from date.

## CHAPTER XXX.—HANS.

**No. 1062.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN JACOB HANS AND CAROLINE HANS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between Jacob Hans and Caroline Hans be and the same are hereby dissolved, and that the said Caroline have the custody of her son Henry.

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<sup>1</sup> Passed Dec. 16, 1859. (See Seventh Reg. Sess. 1859-60, p. 474.) In effect from date.

CHAPTER XXXI.—HENDLEY.

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**No. 1063.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN THOMAS B. HENDLEY AND MARGARET C. HENDLEY, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 142, Local Laws.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER XXXII.—HOADLEY.

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**No. 1064.—AN ACT DISSOLVING THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN SILAS HOADLEY AND JENNIE HOADLEY, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 27, 1863. (See Tenth Reg. Sess. 1862-63, p. 143, Local Laws.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER XXXIII.—HUGHES.

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**No. 1065.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN FRANCIS W. HUGHES AND HIS WIFE, ELLEN HUGHES.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between Francis W. Hughes and his wife, Ellen Hughes, be and the same are hereby dissolved.

§ 2. **Change of Name.**—SEC. 2. That the said Ellen Hughes be restored to the title of her maiden name, to wit, Ellen Haven.

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<sup>1</sup> Passed Jan. 10, 1861. (See Eighth Reg. Sess. 1860-61, p. 83.) In effect from date.

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CHAPTER XXXIV.—JONES.

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**No. 1066.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN MORRIS JONES AND ISABELLA, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 27, 1862. (See Ninth Reg. Sess. 1861-62, p. 115.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER XXXV.—KELLER.

**No. 1067.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN ANDREW R. KELLER AND ELMINA KELLER.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between Andrew R. Keller and Elmina Keller be and the same are hereby dissolved; and the said Elmina Keller shall have the custody of their three children, whose names are Isabel, Sarah Jane, Adalana.

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<sup>1</sup> Passed Jan. 17, 1860. (See Seventh Reg. Sess. 1859-60, p. 476.) In effect from date.

## CHAPTER XXXVI.—KINDRED.

**No. 1068.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN JOHN KINDRED AND SALLY, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 27, 1862. (See Ninth Reg. Sess. 1861-62, p. 113.) See also No. 1033, *supra*, Note 2. In effect from date.

## CHAPTER XXXVII.—KLINK.

**No. 1069.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN GEO. W. AND LIZZIE KLINK.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, p. 141, Local Laws.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER XXXVIII.—LEGG.

**No. 1070.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY NOW EXISTING BETWEEN WM. LEGG AND BETSY LEGG, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 10, 1862. (See Ninth Reg. Sess. 1861-62, p. 73.) See also No. 1033, *supra*, Note 3. In effect from date.

## CHAPTER XXXIX.—LENDINGHAM.

**No. 1071.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN A. L. LENDINGHAM AND JULIA A. LENDINGHAM.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 25, 1858. (See Fifth Reg. Sess. 1857-58, p. 53.) See also No. 1033, *supra*, Note 4.

CHAPTER XL.—LINDNER.

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**No. 1072.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN ANGELINE LINDNER AND F. LINDNER.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 26, 1860. (See Seventh Reg. Sess. 1859-60, p. 478.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER XLI.—MADISON.

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**No. 1073.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN GEORGE W. MADISON AND SARAH MADISON, HIS WIFE.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.,* That the bonds of matrimony existing between George W. Madison and Sarah Madison, his wife, be and the same are hereby dissolved.

§ 2. **Change of Name.**—SEC. 2. *And be it further enacted,* That the said Sarah Madison be and she is hereby restored to her maiden name, Sarah Hughs.

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<sup>1</sup> Passed Jan. 11, 1862. (See Ninth Reg. Sess. 1861-62, p. 79.) In effect from date.

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CHAPTER XLII.—McCULLOUGH.

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**No. 1074.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN J. W. McCULLOUGH AND ISABELLA, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 138, Local Laws.) See also No. 1033, *supra*, Note 2. In effect from date.

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CHAPTER XLIII.—McKAHN.

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**No. 1075.—AN ACT DISSOLVING THE BONDS OF MATRIMONY BETWEEN GEORGE MCKAHN AND HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 20, 1863. (See Tenth Reg. Sess. 1862-1863, p. 139, Local Laws.) See also No. 1033, *supra*, Note 2. In effect from date.

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CHAPTER XLIV.—MCLEOD.

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**No. 1076.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN JOHN MCLEOD AND EMMA, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 13, 1862. (See Ninth Reg. Sess. 1861-2, p. 79.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER XLV.—McMULLEN.

**No. 1077.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN FAYETTE McMULLEN AND POLLY A. McMULLEN.<sup>1</sup>**

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<sup>1</sup> Passed Dec. 23, 1857. (See Fifth Reg. Sess. 1857-58, p. 53.) See also No. 1033, *supra*, Note 4.

## CHAPTER XLVI.—McNATT.

**No. 1078.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN FRANCIS McNATT AND MARY ANN McNATT.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 27, 1860. (See Seventh Reg. Sess. 1859-60, p. 478.) See also No. 1033, *supra*, Note 4.

## CHAPTER XLVII.—MERILETT.

**No. 1079.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN L. O. MERILETT AND LUCINDA MERILETT.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 13, 1860. (See Seventh Reg. Sess. 1859-60, p. 476.) See also No. 1033, *supra*, Note 4.

## CHAPTER XLVIII.—MONSONA.

**No. 1080.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN KIATONA MONSONA AND CATHERINE MONSONA.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 16, 1862. (See Ninth Reg. Sess. 1861-62, p. 87.) See also No. 1033, *supra*, Note 2. In effect from date.

## CHAPTER XLIX.—PIERCE.

**No. 1081.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN AMOS B. PIERCE AND ELIZABETH PIERCE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 26, 1860. (See Seventh Reg. Sess. 1859-60, p. 478.) See also No. 1033, *supra*, Note 4.



CHAPTER L.—POOLER.

**No. 1082.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN LAWRENCE M. POOLER AND CATHERINE POOLER.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between Lawrence M. Pooler and his wife, Catherine Pooler, be and the same are hereby dissolved.

§ 2. **Custody of Children.**—SEC. 2. That the said Catherine Pooler have the sole custody of her child, Thomas Lawrence Pooler, until he shall become of age.

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<sup>1</sup> Passed Jan. 3, 1856. (See Third Reg. Sess. 1855-56, p. 21.) In effect from date.

CHAPTER LI.—PULLEN.

**No. 1083.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN WILLIAM H. PULLEN AND HIS WIFE, MARIA B. PULLEN.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between William H. Pullen and his wife, Maria B. Pullen, be and the same are hereby dissolved.

§ 2. **Custody of Children.**—SEC. 2. That the said Maria B. Pullen have the sole custody of her children, Anna Windsor and James Edward Pullen, until they shall become of age.

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<sup>1</sup> Passed Jan 11, 1859. (See Sixth Reg. Sess. 1858-59, p. 62.) In effect from date.

CHAPTER LII.—RICH.

**No. 1084.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN WARREN RICH AND HARRIET RICH, HIS WIFE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the bonds of matrimony heretofore existing between Warren Rich and Harriet Rich his wife be and are hereby dissolved, and that the said Harriet be restored her maiden name of Reed, by which she may be hereafter known and designated.

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<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 139, Local Laws.) In effect from date.

## CHAPTER LIII.—SAVAGE.

**No. 1085.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY NOW EXISTING BETWEEN WM. N. SAVAGE AND ELIZABETH, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 140, Local Laws.) See also No. 1033, *supra*, Note 3. In effect from date.

## CHAPTER LIV.—SCHMEIG.

**No. 1086.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN MARTIN SCHMEIG AND ELIZABETH C. SCHMEIG.<sup>1</sup>**

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<sup>1</sup> Passed Feb. 1, 1860. (See Seventh Reg. Sess. 1859-60, p. 479.) See also No. 1033, *supra*, Note 3. In effect from date.

## CHAPTER LV.—SEBERT.

**No. 1087.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN CHARLES AND CAROLINE SEBERT, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 12, 1863. (See Tenth Reg. Sess. 1862-63, p. 140.) See also No. 1033, *supra*, Note 2. In effect from date.

## CHAPTER LVI.—SERAULT.

**No. 1088.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN ELIE SERAULT AND THERESA, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 27, 1862. (See Ninth Reg. Sess. 1861-62, p. 115.) See also No. 1033, *supra*, Note 2.

## CHAPTER LVII.—SHEA.

**No. 1089.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN E. SHEA AND MARY SHEA.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 24, 1862. (See Ninth Reg. Sess. 1861-62, p. 95.) See also No. 1033, *supra*, Note 2. In effect from date.

CHAPTER LVIII.—SMITH.

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**No. 1090.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN JOHN SMITH AND MARY ANN SMITH.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.,* That the bonds of matrimony heretofore existing between John Smith and Mary Ann Smith be and the same are hereby dissolved.

§ 2. **Custody of Children.**—SEC. 2. That the said Mary Ann Smith have the sole care and control of the children.

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<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, p. 140, Local Laws.) In effect from date.

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CHAPTER LIX.—SPARKS.

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**No. 1091.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN JOHN G. SPARKS AND HIS WIFE, REBECCA SPARKS.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 11, 1862. (See Ninth Reg. Sess. 1861-62, p. 77.) See also No. 1033, *supra*, Note 4. In effect from date.

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CHAPTER LX.—STOCKING.

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**No. 1092.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN WILLIAM R. STOCKING AND ISABELLA STOCKING.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 9, 1861. (See Eighth Reg. Sess. 1860-61, p. 81.) See also No. 1033, *supra*, Note 4.

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CHAPTER LXI.—STOUT.

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**No. 1093.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY NOW EXISTING BETWEEN JOHN STOUT AND ELIZA STOUT.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, p. 143, Local Laws.) See also No. 1033, *supra*, Note 3. In effect from date.

## CHAPTER LXII.—SYLVESTER.

**No. 1094.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN CROWELL H. SYLVESTER AND HARRIET P. SYLVESTER.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 17, 1860. (See Seventh Reg. Sess. 1859-60, p. 476.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER LXIII.—TALLENTINE.

**No. 1095.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN THOMAS TALLENTINE AND HIS WIFE, AGNES M. TALLENTINE.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 26, 1860. (See Seventh Reg. Sess. 1859-60, p. 477.) See also No. 1033, *supra*, Note 4.

## CHAPTER LXIV.—TAYLOR.

**No. 1096.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY HERETOFORE EXISTING BETWEEN JOHN TAYLOR AND JANE TAYLOR.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Feb. 1, 1860. (See Seventh Reg. Sess. 1859-60, p. 479.) See also No. 1033, *supra*, Note 4.

## CHAPTER LXV.—THOMPSON.

**No 1097.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN E. H. THOMPSON AND ELIZABETH THOMPSON.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 15, 1861. (See Eighth Reg. Sess. 1860-61, p. 92.) See also No. 1033, *supra*, Note 4. In effect from date.

## CHAPTER LXVI.—THORNDIKE.

**No. 1098.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN J. K. THORNDIKE AND ELVIRA P. THORNDIKE, HIS WIFE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 7, 1862. (See Ninth Reg. Sess. 1861-62, p. 68.) See also No. 1033, *supra*, Note 4. In effect from date.

CHAPTER LXVII.—VAN BIBBER.

**No. 1099.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN JOHN VAN BIBBER AND RHODA R. VAN BIBBER, HIS WIFE.<sup>1</sup>**

§ 1. **Dissolution of Bonds.**—SECTION 1. *Be it enacted, etc.,* That the bonds of matrimony existing between John Van Bibber and Rhoda R. Van Bibber, his wife, be and the same are hereby dissolved.

§ 2. **Custody of Children.**—SEC. 2. The said Rhoda R. Van Bibber is hereby granted the sole custody and control of her children, to wit: Francis Marion, Emma Theresa, and Edith Belle, also, any heir or heirs that may be born the issue of such marriage.

<sup>1</sup> Passed Jan. 16, 1862. (See Ninth Reg. Sess. 1861-62, p. 88.)

CHAPTER LXVIII.—WEBSTER.

**No. 1100.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN WILLIAM WEBSTER AND CATHARINE WEBSTER.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the bonds of matrimony now and heretofore existing between William Webster and Catharine Webster, his wife, be and the same are hereby dissolved, and the custody, care and control of the minor children, the issue of said marriage, respectively named Catharine and William, be and the same remain in the charge of said Catharine Webster.

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<sup>1</sup> Passed Jan. 21, 1861. (See Eighth Reg. Sess. 1860-61, p. 101.) In effect from date.

CHAPTER LXIX.—WEED.

**No. 1101.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN SMITH WEED AND ABIGAIL WEED.<sup>1</sup>**

\* \* \* \* \*

<sup>1</sup> Passed Jan. 12, 1863. (See Tenth Reg. Sess. 1862-63, p. 143, Local Laws.) See also No. 1033, *supra*, Note 2. In effect from date.

CHAPTER LXX.—WHITING.

**No. 1102.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY BETWEEN BENJAMIN WHITING AND MARY WHITING.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 28, 1863. (See Tenth Reg. Sess. 1862-63, p. 141, Local Laws.) See also No. 1033, *supra*, Note 4. In effect from date.



## CHAPTER LXXI.—YOUNGLOVE.

**No. 1103.—AN ACT TO DISSOLVE THE BONDS OF MATRIMONY EXISTING BETWEEN LEWIS YOUNGLOVE AND HENRIETTA A. YOUNGLOVE.<sup>1</sup>**

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<sup>1</sup> Passed Jan. 24, 1863. (See Tenth Reg. Sess. 1862-63, p. 144, Local Laws.) See also No. 1033, *supra*, Note 2. In effect from date.

## TITLE V.—INSANE: HOSPITAL FOR

**No. 1104.—AN ACT TO ESTABLISH A HOSPITAL FOR THE INSANE IN WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. Name—Laws Governing.**—SECTION 1. *Be it enacted, etc.*, That the Territorial asylum for the insane and idiotic, situated near the town of Steilacoom, in the county of Pierce, shall be hereafter styled and known as the Hospital for the Insane in Washington Territory, and all statutes mentioning and referring to said asylum heretofore enacted and not otherwise inconsistent with provisions of this act, shall hereafter have the same operation as if they mentioned or referred to hospital for the insane in Washington Territory.

**§ 2. Board of Trustees.**—SEC. 2. That a board of five trustees shall be nominated by the governor, \* \* \*

**§ 3. Powers of Board.**—SEC. 3. Said board shall have power to \* \* \* hold, manage, dispose of, and convey all real \* \* \* property made over to them by gift, devise or bequest, and the proceeds and increase thereof for the use of the hospital. \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 83.) All conflicting acts and parts of acts repealed. In effect from date.

**No. 1105.—AN ACT TO PROVIDE FOR THE PERMANENT LOCATION AND CONSTRUCTION OF AN HOSPITAL FOR THE INSANE IN EASTERN WASHINGTON.<sup>1</sup>**

**§ 1. Location.**—*Be it enacted, etc.* SECTION 1. That a State or Territorial hospital for the insane shall be and is hereby permanently established and located in the town of Medical Lake, Spokane county.

**§ 2. Commissioners.**—SEC. 2. That it shall be the duty of the governor, within ten (10) days after the approval of this act, to appoint three (3) competent persons, residents of this Territory, who shall constitute a board of commissioners for the construction of said hospital for the insane, and whose term of office shall be two (2) years, and until their successors are appointed and qualified.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 25, 1888. (See Eleventh Bien. Sess. 1887-88, p. 108.) All conflicting acts and parts of acts repealed. In effect from date.

§ 3. **May Receive Deed to Certain Tracts.**—SEC. 8. The said commissioners shall receive a deed of conveyance, clear of all encumbrance, in trust, for the people of Washington Territory, for the northeast (N. E.  $\frac{1}{4}$ ) quarter of section thirteen (13), township (24) twenty-four, N. R. 40 E., W. M., said land being donated by the citizens of said town of Medical Lake, and upon which land the said hospital for the insane shall be erected, \* \* \*

\* \* \* \* \*

## TITLE VI.—MINING DISTRICTS.†

### No. 1106.—AN ACT TO DEFINE THE BOUNDARY LINES OF NATCHESS MINING DISTRICT IN THE CASCADE RANGE OF MOUNTAINS.<sup>1</sup>

§ 1. **SECTION 1.** *Be it enacted, etc.,* That all that part of the Cascade range of mountains situate, lying and being between the fourth (4) and the seventh (7) standard parallels, be and the same is hereby defined and declared to be and to constitute the Natchess mining district.

<sup>1</sup> Approved Jan. 14, 1865. (See Twelfth Reg. Sess. 1864-65, p. 81.)

† For the sake of convenience acts of a general nature relating to this subject appear under this head.

### No. 1106†.—AN ACT TO CREATE THE VANCOUVER QUARTZ MINING DISTRICT AND REGULATE THE HOLDING OF CLAIMS THEREIN.<sup>1</sup>

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That all that portion of the Cascade mountains lying between the Columbia river and the second standard parallel be and the same is hereby defined and declared to be and to constitute the Vancouver Mining District.

§ 2. **Extent of Claim.**—SEC. 2. That the extent of a quartz claim in said district shall be two hundred feet of the lode, including all dips, spurs and angles within said two hundred feet, and for fifty feet on either side of the ledge.

§ 3. **Right of Discovery.**—SEC. 3. Any person who may discover a ledge of mineral bearing quartz within said district shall be entitled to hold two claims, one as a discovery claim and one by right of pre-emption.

§ 4. **How Marked.**—SEC. 4. No person shall be entitled to hold a quartz mining claim in said district unless upon locating such claim he shall distinctly mark the bounds, by planting firmly stakes not less than three inches square at either end of each claim, upon which shall be plainly marked, or cut, the name of the locator and the number of the claim, counting from the discovery claim in regular order upon either extension, and shall cause the same to be recorded in the county recorder's office, in the county in which such claim or ledge may be situated, within ten days after locating such claim.

\* \* \* \* \*

§ 5. **What Necessary to Hold.**—SEC. 6. Every person who may locate a quartz mining claim in said district, shall within one year after locating such claim, do or cause to be done one hundred dollars worth of work upon each and every claim held or located by such person. An affidavit sworn to before any person competent to administer oaths, by the

<sup>1</sup> Approved Jan. 17, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 182.)

person or persons performing such labor or work, and filed with the county auditor, shall be sufficient proof or compliance with the requirements of this section; or in lieu of such work the persons holding such claim or claims may pay into the county treasury of the county in which such claim or claims may be located, one hundred dollars, one-half of which shall be for the use of common schools, one-fourth to the use of the county, and the balance to the use of the Territory.

§ 6. **Rights of Companies.**—SEC. 7. Individuals associated together as companies may, by working upon any portion of the claims held or owned by them as a company, to the amount of one hundred dollars for each and every claim so held, be deemed to have worked upon each, and shall not therefore be deemed to have forfeited any, or may pay into the county treasury as provided for in section six of this act.

§ 7. **Effect of Recording.**—SEC. 8. No sales or transfers of claims shall be deemed valid unless the same shall be recorded in the county recorder's office in the county where such claim or claims may be situated, within fifteen days after such sale or transfer.

**No. 1107.—AN ACT DEFINING THE BOUNDARY OF MOUNT RAINIER MINING DISTRICT AND REGULATING CLAIMS.<sup>1</sup>**

§ 1. **Boundaries.**—SECTION 1. *Be it enacted, etc.,* That the boundary line of Mount Rainier Mining District shall embrace all that part of the Cascade range of mountains lying between the second and fourth standard parallels, be and the same is hereby defined and declared to be and to constitute the Mount Rainier Mining District.

§ 2. **Extent of Claim.**—SEC. 2. That the extent of a quartz mining claim in said district shall not exceed two hundred feet of the lode, including all the dips, spurs and angles embraced within the space of said two hundred feet.

§ 3. **Right of Discovery.**—SEC. 3. Any person who shall discover a vein of mineral-bearing quartz shall be entitled to two claims of the dimensions specified in the preceding section.

§ 4. **What Necessary to Hold.**—SEC. 4. No person shall be entitled to hold a quartz mining claim in said district, unless during the summer months immediately following the location of such claim he shall perform or cause to be performed labor in developing such claim to the value of one hundred dollars; and no person shall have any rights in a mining claim until his notice of intention to hold the same shall have been thereon posted, and the said notice shall be recorded on the district records within fifteen days from the date and posting of said notice; the same applying to water claims.

§ 5. **Rights of Companies.**—SEC. 5. Individuals associated together as companies may, by working upon any portion of their claims which are held, claimed or owned by them as a company, perform the labor required by this act of individuals locating and holding claims, and such labor shall entitle them to hold their claims under this act.

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<sup>1</sup> Approved Jan. 22, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 184.) All conflicting acts repealed. In effect from date.

**No. 1108.—AN ACT TO REGULATE THE HOLDING OF LEAD, COPPER AND IRON MINING CLAIMS.<sup>1</sup>**

§ 1. **Extent.**—SECTION 1. *Be it enacted, etc.,* That any person may locate, claim or take up a tract of land not exceeding three hundred yards

<sup>1</sup> Passed Jan. 10, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 146.) In effect from date.

square on the surface of the ground containing any lead, copper or iron ore or mineral in this Territory, and hold and have the exclusive possession thereof.

§ 2. **How Marked.**—SEC. 2. It shall be the duty of any person taking up, locating or claiming any mining claim or mineral lode of any of the minerals mentioned in section one of this act, to distinctly mark the bounds thereof by firmly planting stakes at each corner of his claim, which stakes shall not be less than three inches square, and shall have the name of the claimant and the number of the claim plainly marked or cut thereon, and the said claim shall be numbered in its regular order, counting from the discovery claim; and the same claimant shall within thirty days after the locating of such mining claim or mineral lode, make out and record in the office of the county auditor of the county in which said claim is located, a description of his said claim, including the number of the claim, the date of the location thereof, and the name of the claimant.

§ 3. **What Necessary to Hold.**—SEC. 3. It shall be the duty of every person locating a mining claim or mineral lode under the provisions of this act, within one year after locating the same, to do or cause to be done one hundred dollars' worth of work on said claim, and the said claimant shall within three years after the location of said claim, have the same opened up and shall then work the same at least three months in each year.

§ 4. **How Rights Forfeited.**—SEC. 4. Any person locating a mining claim or mineral lode under the provisions of this act, who shall fail to comply with any of the requirements of sections one and two of this act, shall forfeit all right, title or claim to such mining claim or mineral lode acquired under or by virtue of this act.

\* \* \* \* \*

#### **No. 1109.—AN ACT IN RELATION TO THE SKAGIT MINING DISTRICT.<sup>1</sup>**

§ 1. **Extent of Claim.**—SECTION 1. *Be it enacted, etc.,* That the extent of a quartz mining claim in said district shall not exceed two hundred feet of the lead, including all the dips, spurs and angles embraced within the space of said two hundred feet.

§ 2. **Right of Discovery.**—SEC. 2. Any person who shall discover a vein of mineral bearing quartz shall be entitled to two claims of the dimensions specified in section first.

§ 3. **What Necessary to Hold.**—SEC. 3. No person shall be entitled to hold a quartz mining claim in said district unless during the summer months immediately following the location of such claim he shall perform or cause to be performed labor in developing such claim to the value of one hundred dollars; and any person failing to work such claims or have them worked for the period of two months during the summer and autumn months shall forfeit and lose all rights to the same thereafter.

§ 4. **Effect of Notice of Intention.**—SEC. 4. No person shall have any rights in a mining claim until his notice of intention to hold the same shall clearly define the boundaries of such claim.

§ 5. **Rights of Companies.**—SEC. 5. Individuals associated together as companies may, by working upon any portion of their claims which are held, claimed or owned by them as a company, perform the labor required by this act of individuals locating and holding claims, and such labor shall entitle them to hold their claims under this act.

§ 6. **Recording.**—SEC. 6. No person shall be allowed to hold any claim already taken in said district unless the same shall be recorded in

<sup>1</sup> Approved Jan. 28, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 206.) In effect from date.

the office of the district recorder by the first day of July, 1867, and all claims taken after said date must be recorded within thirty days after the location of the same, or the holders shall forfeit all their title and interest in the same.

\* \* \* \* \*

**No. 1110.—AN ACT IN RELATION TO QUARTZ MINING CLAIMS.<sup>1</sup>**

§ 1. **Extent.**—SECTION 1. *Be it enacted, etc.*, That the extent of a quartz mining claim in said Territory shall be two hundred feet of the lode, including all dips, spurs and angles within said two hundred feet, and for fifty feet on each side of the ledge.

§ 2. **Right of Discovery.**—SEC. 2. Any person who may discover a ledge of mineral bearing quartz within this territory shall be entitled to hold two claims, one as a discovery claim and one by right of preëmption.

§ 3. **How Marked—Recording.**—SEC. 3. No person shall be entitled to hold a quartz mineral claim in said Territory unless upon locating said claim he shall distinctly mark the bounds by planting firmly stakes not less than three inches square at each end of such claim, and by placing thereon a notice in writing designating the name of each claimant, the number of the claim, and if the discovery claim, the same shall be so specified, together with the name of the ledge and the number of feet in the aggregate, together with date of location, and shall cause the same to be recorded in the county auditor's office in the county in which such claim or ledge may be situated, within twenty days after locating such claim.

§ 4. **Duty of Auditor.**—SEC. 4. It shall be the duty of the county auditor of the county in which such claim is located to record all notices of the location of claims under the provisions of this act, in a book to be by him kept in his office, to be called the "book of quartz claims," and shall be entitled to charge and receive for each and every claim such notice shall contain the sum of one dollar.

§ 5. **What Necessary to Hold.**—SEC. 5. Every person who may locate a quartz mining claim in said Territory, shall within one year after locating such claim, do, or cause to be done, one hundred dollars' worth of work upon each and every claim held or located by such person. An affidavit sworn to before any person competent to administer oaths, by the person or persons performing such labor or work, and filed with the county auditor, shall be *prima facie* evidence of the compliance with the requirements of this section.

§ 6. **Rights of Companies.**—SEC. 6. Individuals associated together as companies may, by working upon any portion of the claims held or owned by them as a company, to the amount of one hundred dollars for each and every claim so held, be deemed to have worked on each claim, and shall not therefore be deemed to have forfeited any part thereof, or may pay into the county treasury the amount of one hundred dollars, as provided for in section fifth of this act.

§ 7. **Effect of Recording.**—SEC. 7. No sales or transfer of claims shall be deemed valid unless the same shall be recorded in the county auditor's office in the county where such claim or claims may be situated, within twenty days after such sale or transfer.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 26, 1869. (See Second Blen. Sess. 1869, p. 386.) All conflicting acts repealed. In effect from date.

**No. 1111.—AN ACT IN RELATION TO QUARTZ MINING CLAIMS.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, The congress of the United States did by act approved May 10, 1872, provide that all mineral lands, both surveyed

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Blen. Sess. 1873, p. 441.) All conflicting acts and parts of acts repealed. In effect from date.



and unsurveyed, should thereafter be free and open to exploration and purchase by citizens of the United States, and those who had duly declared their intentions to become such, and did by said act recognize the local customs and rules of the miners in different mining districts of the United States and its Territories; and did make certain other provisions and regulations in reference to mineral lands, that local laws may regulate and make operative; therefore,

§ 2. **Extent of Claim.**—SECTION 1. *Be it enacted, etc.*, That all mining claims upon veins or lodes of quartz or other rock in place bearing gold, or other valuable mineral deposits heretofore located, shall be governed as to length along the vein or lode, by the customs regulations and laws in force on the date of their location. A mining claim located after the passage of this act, whether located by one or more persons, may equal but not exceed one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet of surface on each side of the middle of the vein or the surface, except where adverse rights existing on the 10th day of May, 1872, shall render such limitation necessary. The end lines of each claim shall be parallel to each other.

§ 3. **Locator's Exclusive Right.**—SEC. 2. The locators of all mining locations heretofore made on any mineral vein, lode or ledge on the public domain, and their heirs and assigns, so long as they comply with United States, Territorial and local laws, shall have exclusive right of possession and enjoyment of all surface included within the lines of their locations, and of all veins, lodes and ledges throughout their entire depth, to the top or apex of which lies inside of such surface lines extending downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside of the vertical side line of said surface locations: *Provided*, That nothing in this section shall be construed to extend the claim of any locator of a mining claim into the claim owned or possessed by any other person.

§ 4. **Local Rules Governing Location and Recording.**—SEC. 3. The miners of each mining district may make rules and regulations governing the location, manner of recording and amount of work necessary to hold possession of a mining claim, subject to the requirements of the act of congress approved May 10, 1872, entitled "an act to promote the development of the mining resources of the United States," which are as follows: "The location must be distinctly marked on the ground, so that its boundaries may be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims, located by reference to some natural objects or permanent monument as will identify the claim. On each claim located after the passage of this act, and until a patent shall issue therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, and upon a failure to comply with these conditions, the claim upon which such failure occurred shall be open to relocation, in the same manner as if no location of the same had ever been made:" *Provided*, That all mining claims shall be recorded in the office of the county auditor of the county where the same is situated until regulations for the recording thereof shall be duly made by the miners of the mining district in which the claim is situated: *And provided further*, That such record with the county auditor, before such regulations may have been made by the miners of the district providing for the record of such location, shall be all the record of the same that shall be required in the mining districts of this Territory.

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**No. 1112.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN RELATION TO QUARTZ MINING CLAIMS," APPROVED NOVEMBER 13, 1873.<sup>1</sup>**

**§ 1. Rules Regulating—Substance of Record.**—SECTION 1. *Be it enacted, etc.,* That section three of said act be amended to read as follows: "The miners of each mining district may make rules and regulations governing the location and amount of work necessary to hold possession of a mining claim subject to the requirements of the act of Congress approved May 10, 1872, entitled 'an act to promote the development of the mining resources of the United States,' which are as follows: 'The location must be distinctly marked on the ground so that its boundaries may be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location and such a description of the claim or claims, located by reference to some natural objects or permanent monument, as will identify the claim. On each claim located after the passage of this act, and until a patent shall issue therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, and upon a failure to comply with these conditions, the claim upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made:' *Provided*, That all mining claims shall be recorded in the office of the county auditor of the county where the same is situated."

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Blen. Sess. 185, p. 126.) All conflicting acts repealed. In effect from date.

**No. 1113.—AN ACT TO REPEAL AN ACT ENTITLED AN ACT TO AMEND AN ACT ENTITLED AN ACT IN RELATION TO QUARTZ MINING CLAIMS, APPROVED NOVEMBER 12TH, 1875, SO FAR AS THE SAME APPLIES TO STEVENS COUNTY.<sup>1</sup>**

**§ 1. SECTION 1.** *Be it enacted, etc.,* That an act entitled "An act to amend an act entitled an act in relation to quartz mining claims," approved November 12th, 1875,<sup>2</sup> be and the same is hereby repealed so far as it applies to Stevens county.

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<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Blen. Sess. 1877, p. 335.) In effect from date.  
<sup>2</sup> See No. 1112, *supra*.

**No. 1114.—AN ACT FOR THE ENCOURAGEMENT AND SUPPORT OF MINING AND MANUFACTURING.<sup>1</sup>**

**§ 1. Preamble.**—WHEREAS, mining and manufacturing industries are greatly beneficial to the public, and should be encouraged and supported in this Territory; now, therefore,

**§ 2. General Powers.**—SECTION 1. *Be it enacted, etc.,* That any person or persons, or company now incorporated, or that may hereafter become incorporated under the laws of this Territory, for the purpose of mining or manufacturing, shall have the right to purchase or appropriate and take possession of and divert from its natural channel, and use and hold the waters of any river, creek or stream in this Territory that may be required for the mining and manufacturing purposes of any such person or persons, corporation or corporations, and to construct all dams, canals, reservoirs, ditches, pipes, flumes and aqueducts suitable and nec-

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Reg. Sess. 1879, p. 124.) All conflicting acts repealed. In effect from date.

essary for the controlling, directing and running such waters to their mines or manufacturing establishment of any such person or persons, corporation or corporations, where the same may be intended to be utilized for such purposes: *Provided*, That no such appropriation or diversion of the waters of any such river, creek or stream from its natural channel; nor shall any such dam, canal, reservoir, ditch, pipe, flume or aqueduct be constructed to the detriment of any person or persons, corporation or corporations, occupying the lands or being located below the point or place of such appropriation or diversion on any such stream or its tributaries, or above or below such dam, canal, reservoir, ditch, pipe, flume or aqueduct, or of the owners of the lands through which the waters run in the natural course for the deprivation of the same, or the owners of the land through or upon which such dam, canal, reservoir, ditch, pipe, flume or aqueduct may pass through or over, or be situated upon, unless just and adequate compensation be previously ascertained and paid therefor.

§ 3. **Mode of Appropriation of Private Property.**—SEC. 2. That the mode of proceeding to appropriate, take possession of and divert such waters and to build such dam, canal, ditch, reservoir, pipe, flume or aqueduct, as prescribed in section one of this act, when the parties cannot agree upon the purchase thereof, shall be the same as prescribed in chapter four of an act to provide for the formation of corporations, approved November thirteenth, eighteen hundred and seventy-three,<sup>2</sup> except that the amount of the benefits accruing to the residue of the property of the same individual or corporation, by reason of the use made of that taken, to be estimated by the parties assessing the damages, shall be deducted from the value of the property taken.

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<sup>2</sup> See No. 458, §§ 8 to 13, inclusive, *supra*.

## TITLE VII.—NAMES OF PERSONS, CHANGE OF.

### CHAPTER I.—ASH: FOSS.

**No. 1115.—AN ACT TO CHANGE THE NAME OF LOUISA VICTORIA ASH TO THAT OF LOUISA VICTORIA FOSS, AND MAKE HER AN HEIR-AT-LAW OF JOHN FOSS, OF SNOHOMISH COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Louisa Victoria Ash, stepchild of John Foss, of Snohomish county, Washington Territory, be changed to that of Louisa Victoria Foss.

§ 2. SEC. 2. That the said Louisa Victoria Foss shall be and is hereby made an heir-at-law of the said John Foss, on equal footing with the children of said Foss.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 22, 1871. (See Third Bien. Sess. 1871, p. 129.) In effect from date.

## CHAPTER II.—BLAKE: CLINGER.

**No. 1116.—AN ACT TO CHANGE THE NAMES OF CYNTHIA L. BLAKE AND DORA B. BLAKE TO THAT OF CYNTHIA L. CLINGER AND DORA B. CLINGER.<sup>1</sup>**

§ 1. *Be it enacted, etc.*, SECTION 1. That the names of Cynthia L. Blake and Dora B. Blake, daughters of Charles Blake, late of Jefferson county, W. T., be and the same are hereby changed to that of Cynthia L. Clinger and Dora B. Clinger.

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<sup>1</sup> Approved Jan. 19, 1886. (See Tenth Bien. Sess. 1885-86, p. 464.) In effect from date.

## CHAPTER III.—CHRISTENSEN: CRISTEY.

**No. 1117.—AN ACT TO CHANGE THE NAME OF JOHANA FREDERICK CHRISTENSEN TO JOHN FREDERICK CRISTEY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Johana Frederick Christensen be and the same is hereby changed to John Frederick Cristey.

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<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1885-86, p. 239.) In effect from date.

## CHAPTER IV.—DELAY: HARLOW.

**No. 1118.—TO CHANGE THE NAME OF ZERELDA H. DELAY TO THAT OF ZERELDA H. HARLOW.<sup>1</sup>**

§ 1. *Be it enacted, etc.* SECTION 1. That the name of Zerelda H. Delay, of Clarke county, W. T., be and the same is hereby changed to that of Zerelda H. Harlow, in accordance with her petition to that effect.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 21, 1885. (See Tenth Bien. Sess. 1885-86, p. 465.) In effect from date.

## CHAPTER V.—ENSIGN: COOK.

**No. 1119.—AN ACT TO CHANGE THE NAME OF MARTHA E. ENSIGN TO MARTHA E. COOK.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Martha E. Ensign be and the same is hereby changed to Martha E. Cook.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 27, 1885. (See Fifth Bien. Sess. 1875, p. 238.) In effect from date.

CHAPTER VI.—FISHER: DOWNEY.

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**No. 1120.—AN ACT TO CHANGE THE NAME OF CHARLES WILLIAM FISHER TO THAT OF CHARLES WILLIAM DOWNEY, AND GIVING HIS CUSTODY AND GUARDIANSHIP TO HIS GRANDFATHER, WILLIAM R. DOWNEY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the minor son of George S. Fisher, now residing with his grandfather, Wm. R. Downey, named Charles William Fisher, be and the same is hereby changed to Charles William Downey, and that the said Charles William Fisher shall take and have his name hereafter that of Charles William Downey.

§ 2. SEC. 2. The exclusive care and guardianship of said minor is hereby granted to his grandfather, Wm. R. Downey.

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<sup>1</sup> Approved Nov. 29, 1869. (See Second Blen. Sess. 1868-69, p. 492.) In effect from date.

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CHAPTER VII.—FOSTER: WHITE.

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**No. 1121.—AN ACT TO CHANGE THE NAME OF EMMA SOPHIA FOSTER TO EMMA SOPHIA WHITE, AND MAKE HER THE HEIR-AT-LAW OF JAMES WHITE AND DEBORAH T. WHITE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Emma Sophia Foster, a minor child adopted by James and Deborah T. White, of Kitsap county, be and the same is hereby changed from Emma Sophia Foster to Emma Sophia White, and by the said latter name she shall hereafter be known, called and designated.

§ 2. SEC. 2. That the said Emma Sophia White is hereby made and declared to be the heir-at-law of the said James White and Deborah T. White.

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<sup>1</sup> Approved Nov. 4, 1881. (See Eighth Blen. Spe. Sess. 1881, p. 187.) In effect from date.

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CHAPTER VIII.—FOWLER: PHELAN.

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**No. 1122.—AN ACT TO CHANGE THE NAME OF MRS. MARY E. FOWLER TO THAT OF MRS. MARY E. PHELAN.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Mrs. Mary E. Fowler, of Snohomish county, Washington Territory, be and the same is hereby changed to that of Mary E. Phelan.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 21, 1871. (See Third Blen. Sess. 1871, p. 133.) In effect from date.



## CHAPTER IX.—GRASTY: LOVELL.

**No. 1123.—AN ACT TO CHANGE THE NAME OF SAMUEL FARRIS GRASTY TO SAMUEL FARRIS LOVELL, AND MAKE HIM HEIR-AT-LAW OF ALFRED MOORE LOVELL AND MARTHA LOVELL, OF THE CITY AND COUNTY OF WALLA WALLA, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Samuel Farris Grasty be and the same is hereby changed to that of Samuel Farris Lovell.

§ 2. SEC. 2. *And be it further enacted*, That the said Samuel Farris Lovell be and he is hereby made the heir-at-law of Alfred Moore Lovell and Martha Lovell, of the city and county of Walla Walla, Washington Territory, by the express consent of said Alfred Moore Lovell and Martha Lovell, hereunto annexed,<sup>2</sup> and by the express consent of Rutlige Milton Grasty, the father of said Samuel Farris.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 31, 1873. (See Fourth Bien. Sess. 1873, p. 550.) In effect from date.

<sup>2</sup> There does not appear to be any indorsement or other evidence of consent, as here stated, on file in the office of the secretary of state.

## CHAPTER X.—HARRINGTON: MCCALL.

**No. 1124.—AN ACT TO CHANGE THE NAME OF THOMAS J. HARRINGTON TO THAT OF JOHN M'CALL, AND MAKE HIM THE HEIR-AT-LAW OF CHARLES M'CALL AND MARION J. M'CALL, OF WAHIAKUM COUNTY, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Thomas John Harrington, a minor child of the age of two years and six months, now of Wahkiakum county, Washington Territory, be changed to that of John McCall.

§ 2. SEC. 2. That the said John McCall shall be and is hereby made the heir-at-law of Charles McCall and Marion J. McCall, of said county.

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<sup>1</sup> Approved Nov. 3, 1873. (See Fourth Bien. Sess. 1873, p. 555.) In effect from date.

## CHAPTER XI.—KINDER: SELBY.

**No. 1125.—AN ACT TO CHANGE THE NAME OF MARK TWAIN KINDER TO THAT OF MARK TWAIN SELBY.<sup>1</sup>**

§ 1. *Be it enacted, etc.* SECTION 1. That the name of Mark Twain Kinder, of the county of Clarke, W. T., be and the same is hereby changed to that of Mark Twain Selby; in accordance with the petition of his mother to that effect.

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<sup>1</sup> Approved Dec. 22, 1885. (See Tenth Bien. Sess. 1885-86, p. 465.) In effect from date.

CHAPTER XII.—KORSSTROM: WHITE.

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**No. 1126.—AN ACT TO CHANGE THE NAME OF CHARLES ANTHONY KORSSTROM TO CHARLES ANTHONY WHITE.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, Charles Anthony Korsstrom, a native of Sweden, and naturalized in Mobile, in the State of Alabama, A. D. 1855, is desirous to have his name changed to Charles Anthony White, it being the name by which he has been known for the past eight years.

§ 2. **Name.**—SECTION 1. *Be it enacted, etc.*, That the name of Charles Anthony Korsstrom, a native of Sweden, and naturalized in the year A. D. 1855, at present a citizen of Olympia, Thurston county, Territory of Washington, be and the same is hereby changed to Charles Anthony White, the name by which he is at present known.

<sup>1</sup> Approved Jan. 10, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 229.)

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CHAPTER XIII.—LAMB: TRIPP.

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**No. 1127.—AN ACT TO CHANGE THE NAME OF LAURA LAMB TO LAURA TRIPP, AND TO MAKE HER THE HEIR-AT-LAW OF ABEL G. TRIPP AND RUTH TRIPP, OF VANCOUVER, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. WHEREAS, Abel G. Tripp and Ruth Tripp, his wife, are desirous of adopting one Laura Lamb, an orphan and minor, now residing with them at Vancouver, Washington Territory, and of making her their heir-at-law; therefore,

§ 2. SECTION 1. *Be it enacted, etc.*, That the name of Laura Lamb, a minor child now residing with Abel G. Tripp and Ruth Tripp, his wife, at Vancouver, Washington Territory, be and the same is hereby changed from Laura Lamb to Laura Tripp, and by the said latter name she shall hereafter be known, called and designated.

§ 3. SEC. 2. The said Laura Tripp is hereby declared to be the adopted child of the said Abel G. Tripp and Ruth Tripp, and she is hereby made and declared to be the heir-at-law of the said Abel G. Tripp and Ruth Tripp.

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<sup>1</sup> Approved Oct. 21, 1878. (See Fourth Blen. Sess. 1878, p. 570.) In effect from date.

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CHAPTER XIV.—LIPSTINE: LANDES.

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**No. 1128.—AN ACT TO CHANGE THE NAME OF DAVID LIPSTINE TO THAT OF HENRY LANDES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of David Lipstine be and the same is hereby changed to Henry Landes.

\* \* \* \* \*

<sup>1</sup>(See Seventh Blen. Sess. 1879, p. 227.) Endorsed by the governor: "Received Oct. 29, 1879." Note by the secretary of the Territory: "The foregoing act having been presented to the governor of the Territory of Washington for his approval, and not having been returned by him to the house of representatives, in which it originated, within the time prescribed by the laws of congress, has become a law without his approval." In effect from date.

## CHAPTER XV.—MONRO: ELDRIDGE.

**No. 1129.—AN ACT TO CHANGE THE NAME OF ALEXANDER BRAID MONRO TO THAT OF EDWARD ELDRIDGE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Alexander Braid Monro be and the same is hereby changed to Edward Eldridge.

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<sup>1</sup> Approved Oct. 17, 1873. (See Fourth Blen. Sess. 1873, p. 544.) In effect from date.

## CHAPTER XVI.—MORY: LOVELACE.

**No. 1130.—AN ACT TO CHANGE THE NAME OF ALMANSON MORY TO ALMANSON LOVELACE AND MAKE HIM HEIR-AT-LAW OF JOHN T. LOVELACE, OF CLARKE CO., W. T.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the minor son of Mrs. Mary Lovelace, now residing with his step-father, John T. Lovelace, named Almanson Mory, be and the same is hereby changed to Almanson Lovelace.

§ 2. SEC. 2. Said Almanson Lovelace shall be and hereby is made an heir-at-law of the said J. T. Lovelace, and shall inherit the property of said Lovelace as one of his own children.

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<sup>1</sup> Approved Nov. 29, 1871. (See Third. Blen. Sess. 1871, p. 173.) In effect from date.

## CHAPTER XVII.—MYCOCK: STARR.

**No. 1131.—AN ACT TO CHANGE THE NAME OF GEORGE S. MYCOCK TO THAT OF GEORGE S. STARR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of George S. Mycock be and the same is hereby changed to George S. Starr.

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<sup>1</sup> Approved Nov. 2, 1875. (See Fifth Blen. Sess. 1875, p. 237.) In effect from date.

## CHAPTER XVIII.—OESER: OSER.

**No. 1132.—AN ACT TO CHANGE THE NAME OF CLAUS OESER TO THAT OF FREDERICK OSER.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Claus Oeser be and the same is hereby changed to that of Frederick Oser.

\* \* \* \* \*

<sup>1</sup>(See Seventh Blen. Sess. 1879, p. 227.) Endorsed by the governor: "Received Nov. 8, 1879." Note by the secretary of the Territory: "The foregoing act having been presented to the governor of the Territory of Washington for his approval, and not having been returned by him to the house of representatives, in which it originated within the time prescribed by the laws of congress, has become a law without his approval." In effect from date.

CHAPTER XIX.—OLIVER: HUNT.

**No. 1133.—AN ACT TO AUTHORIZE JAMES M. HUNT AND JULIA HUNT, HIS WIFE, TO ADOPT AS THEIR OWN CHILD THE INFANT DAUGHTER OF REBECCA JANE OLLIVER.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That James M. Hunt and his wife, Julia Hunt, of the town of Dayton, Washington Territory, who have had the care and custody of a minor female child, born on the 21st day of June, A. D. 1873, the daughter of Rebecca Jane Olliver, and the grand daughter of Eliel Olliver, of said Territory, the mother and grandfather fully consenting thereto, are hereby authorized to adopt said infant child from and after the passage of this act. Such child shall in all respects be treated and regarded as the lawful child and heir, and as such share alike with other children of the said James M. Hunt and his wife, Julia Hunt.

§ 2. SEC. 2. Said infant female child shall hereafter take the name of Bertha May Hunt, and be known thereby, and shall hereafter sustain toward said James M. Hunt and his wife, Julia Hunt, the relation of child to parent, and have all the rights incident to such relation, and the said James M. Hunt and Julia Hunt, his wife, shall assume all the duties of such relation and all the responsibilities thereof.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1875. (See Fifth Bien. Sess. 1875, p. 242.) In effect from date.

CHAPTER XX.—PORTER: GOODWIN.

**No. 1134.—AN ACT TO CHANGE THE NAME OF AMANDA SIDORA PORTER TO THAT OF AMANDA SIDORA GOODWIN, AND MAKE HER AN HEIR-AT-LAW OF LEWIS H. GOODWIN, M. D., OF THE CITY OF WALLA WALLA.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Amanda Sidora Porter, an adopted child of L. H. Goodwin, M. D., of the city of Walla Walla, Washington Territory, be and the same is hereby changed to that of Amanda Sidora Goodwin.

§ 2. SEC. 2. Said Amanda Sidora Goodwin shall be and hereby is made an heir-at-law of the said L. H. Goodwin, on equal footing with the children of said Goodwin.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 27, 1869. (See Second Bien. Sess. 1869, p. 479.) In effect from date.

CHAPTER XXI.—RIGGS: WHITMAN.

**No. 1135.—AN ACT AUTHORIZING J. M. WHITMAN AND LUCINDA EME-LINE WHITMAN, HIS WIFE, TO ADOPT AS THEIR OWN CHILDREN FRANKLIN D. RIGGS AND LEWIS L. RIGGS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That J. M. Whitman and Lucinda Emeline Whitman, who have had the custody and care of Franklin G.

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<sup>1</sup> Approved Nov. 11, 1875. (See Fifth Bien. Sess. 1875, p. 236.) In effect from date.

Riggs and Lewis L. Riggs, minors of the respective ages of five and three years, are hereby authorized to adopt said Franklin G. Riggs and Lewis L. Riggs from and after the passage of this act. Said Franklin G. Riggs and Lewis L. Riggs shall in all respects be treated and regarded as the lawful children of J. M. Whitman (and) Lucinda Whitman.

§ 2. SEC. 2. Said Franklin G. Riggs and Lewis L. Riggs shall hereafter take the names of Franklin G. Whitman and Lewis L. Whitman, and be known thereby, and shall hereafter sustain towards said J. M. Whitman and Lucinda Whitman the relation of child to parent, and have all the rights incident to such relation, and the said J. M. Whitman and Lucinda Whitman shall assume all the duties of such relation, and all the responsibility thereof.

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#### CHAPTER XXII.—ROSEBERRY: BRADLEY.

##### No. 1136.—AN ACT TO CHANGE THE NAME OF SARAH A. ROSEBERRY TO THAT OF SARAH A. BRADLEY.<sup>1</sup>

§ 1. *Be it enacted, etc.* SECTION 1. That the name of Sarah A. Roseberry, of Spokane county, Washington Territory, be and the same is hereby changed to that of Sarah A. Bradley.

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<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Blen. Sess. 1885-86, p. 466.) In effect from date.

#### CHAPTER XXIII.—RUSSELL: LEVERICH.

##### No. 1137.—AN ACT AUTHORIZING BENJAMIN N. LEVERICH AND ANNA R., HIS WIFE, TO ADOPT AS THEIR OWN CHILD, IDA OLIVE RUSSELL.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That Benjamin N. Leverich and Anna R. Leverich, who have had the custody and care of Ida Olive Russell, a minor child of the age of five years, since the death of her mother, the father having fully consented thereto, are hereby authorized to adopt said Ida Olive Russell, and from and after the passage of this act, said Ida Olive Russell shall, in all respects, be treated and regarded as the lawful child of said Benjamin N. Leverich and Anna R. Leverich.

§ 2. SEC. 2. Said Ida Olive Russell shall hereafter take the name of Ida Olive Leverich, and be known thereby, and shall hereafter sustain toward said Benjamin N. Leverich and Anna R. Leverich the relation of child to parent, and have all the rights incident to such relation, and the said Benjamin N. Leverich and Anna R. Leverich shall assume all the duties of such relation and all the responsibilities thereof.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 26, 1875. (See Fifth Blen. Sess. 1875, p. 238.) In effect from date.



CHAPTER XXIV.—SMITH: DAVIS.

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**No. 1138.—AN ACT TO CHANGE THE NAME OF WILLIAM SMITH, JR., TO WILLIAM HENRY DAVIS.<sup>1</sup>**

§ 1. WHEREAS, John R. Davis, of Whatcom, now guardian of William Smith, jr., a minor, a native of Pennsylvania, now a resident of Whatcom, Washington Territory, by power of attorney from his parents, William Smith and Harriet Smith, is desirous of adopting said William Smith, jr., as his son; and

WHEREAS, All of the parties desire that the name of the said William Smith, jr., should be changed, therefore,

§ 2. SECTION 1. *Be it enacted, etc.*, That the name of William Smith, jr., a native of the State of Pennsylvania, now a resident of Whatcom, Washington Territory, be and the same is hereby changed to William Henry Davis.

§ 3. SEC. 2. The said William Henry Davis shall, for all legal intents and purposes, be hereafter known as the son of the said John R. Davis.

<sup>1</sup> Approved Jan. 17, 1868. (See First Blen. Sess. 1867-68, p. 144.)

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CHAPTER XXV.—STACKPOLE: KIDD.

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**No. 1139.—AN ACT TO CHANGE THE NAME OF ALMIRA KIDD STACKPOLE TO ALMIRA KIDD.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Almira Kidd Stackpole be and the same is hereby changed to the name of Almira Kidd.

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<sup>1</sup> Approved Oct. 27, 1875. (See Fifth Blen. Sess. 1875, p. 238.) In effect from date.

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CHAPTER XXVI.—STROHMAIER: MAIER.

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**No. 1140.—AN ACT TO CHANGE THE NAME OF CHRISTIAN STROHMAIER TO THAT OF CHRISTIAN MAIER.<sup>1</sup>**

§ 1. **Name.**—SECTION 1. *Be it enacted, etc.*, That the name of Christian Strohmaier, a citizen of Walla Walla county, Washington Territory, and a native of the kingdom of Hanover, be and the same is hereby changed to that of Christian Maier.

§ 2. **Deeds, etc.**—SEC. 2. That wherever the name of Christian Strohmaier may be found in any and all acts, deeds, declarations, contracts, obligations and relations, either of a public or a private nature, made or entered into by him on and after the fourth day of May, A. D. 1857, his said name shall be and hereby is changed to that of Christian Maier, saving to the United States, the Territory of Washington, the said Christian Maier, and to all and every other person or persons, all and every right acquired in or by said acts, deeds, declarations, contracts, obligations or relations.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 25, 1869. (See Second Blen. Sess. 1869, p. 168.) In effect from date.

## CHAPTER XXVII.—VALLENTINE: FARES.

**No. 1141.—AN ACT TO CHANGE THE NAME OF JAMES VALLENTINE, JR., TO JAMES FARES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of James Vallentine, son of Henry and Sarah Vallentine, be and the same is hereby changed to the name of James Fares.

§ 2. SEC. 2. That the said James Fares, be and is hereby made an heir-at-law of Joseph and Lucinda Fares of the county of King and Territory of Washington on equal footing with all other heirs of the said Joseph and Lucinda Fares.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 23, 1873. (See Fourth Bien. Sess. 1873, p. 555.) In effect from date.

## CHAPTER XXVIII.—VAN BEBBER: BOZARTH.

**No. 1142.—AN ACT TO CHANGE THE NAME OF IDA ELNORA VAN BEBBER TO THAT OF IDA ELNORA BOZARTH, AND MAKE HER AN HEIR-AT-LAW OF C. C. BOZARTH, OF COWLITZ COUNTY, W. T.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Ida Elnora Van Bebber, step-daughter of C. C. Bozarth, of Cowlitz county, Washington Territory, be changed to that of Ida Elnora Bozarth.

§ 2. SEC. 2. That the said Ida Elnora Bozarth shall be and is hereby made an heir-at-law of the said C. C. Bozarth.

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<sup>1</sup> Approved Nov. 10, 1873. (See Fourth Bien. Sess. 1873 p. 563.) In effect from date.

## CHAPTER XXIX.—WARD.

**No. 1143.—AN ACT DESIGNATING THE NAME OF AN ORPHAN GIRL HERETOFORE ADOPTED BY CYREL WARD AND WIFE, AS ELLA WARD, AND DECLARING HER AN HEIR-AT-LAW OF CYREL WARD AND SUSAN WARD, AND APPOINTING THEM HER GUARDIANS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the orphan girl heretofore adopted by Cyrel Ward and wife, of Thurston county, and now residing with them, have and take as her name hereafter that of Ella Ward.

§ 2. SEC. 2. The said Ella Ward is hereby declared and made an heir-at-law of the said Cyrel Ward and his wife Susan Ward.

§ 3. SEC. 3. The said Cyrel Ward and wife are hereby declared and made the guardians of the said minor child, Ella Ward, and shall be entitled to her care and custody during her minority.

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<sup>1</sup> Approved Oct. 23, 1873. (See Fourth Bien. Sess. 1873, p. 575.) In effect from date.

CHAPTER XXX.—WILSON: VALPY.

**No. 1144.—AN ACT TO CHANGE THE NAME OF CHARLES WILSON TO CHARLES HENRY VALPY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the name of Charles Wilson be and the same is hereby changed to Charles Henry Valpy.

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<sup>1</sup> Approved Nov. 10, 1873. (See Fourth Blen. Sess. 1873, p. 543.) In effect from date.

TITLE VIII—PENITENTIARY.

**No. 1145.—AN ACT TO PROVIDE FOR THE PERMANENT LOCATION AND CONSTRUCTION OF A TERRITORIAL PENITENTIARY AT WALLA WALLA.<sup>1</sup>**

§ 1. **Location.**—*Be it enacted, etc.* SECTION 1. That a penitentiary, or state or territorial prison, of this Territory, shall be and hereby is permanently located and established in the vicinity of the city of Walla Walla, in Walla Walla county.

§ 2. **Board of Commissioners.**—SEC. 2. That it shall be the duty of the governor, within ten (10) days after the approval of this act, to appoint, by and with the consent of the council, three (3) competent persons, residents of this Territory, who shall constitute a board of commissioners for the construction of said penitentiary, and whose terms of office shall be two (2) years, and until their successors are appointed and qualified.

\* \* \* \* \*

§ 3. **Board to Receive Deed of Certain Tract.**—SEC. 8. The said commissioners shall receive a deed of conveyance, clear of all incumbrance, in trust for the people of Washington Territory, for one hundred and sixty (160) acres of land in the vicinity of the city of Walla Walla, more particularly described as follows: S.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$ , section 18, containing eighty-five (85) acres; and N.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , Section 19, containing seventy-five (75) acres, all in township 7 N., R. 36 E. Said land being donated by the citizens of said city of Walla Walla, and upon which land the said penitentiary shall be erected. \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Jan. 22, 1886. (See Tenth Blen. Sess. 1885-86, p. 152.) All conflicting acts and parts of acts repealed. In effect from date.

## TITLE IX.—REVENUE.

**No. 1146.—AN ACT TO LEGALIZE THE ASSESSMENT OF COWLITZ AND OTHER COUNTIES.<sup>1</sup>**

§ 1. **Assessment, 1854.**—SECTION 1. *Be it enacted, etc.,* That the assessment made by Thomas Roe, in Cowlitz county, in the year eighteen hundred and fifty-four, though not made at the time required by an act to provide for the collecting of county and Territorial revenue, shall not be invalid on that account, but is hereby legalized.

§ 2. **All Assessments Legalized.**—SEC. 2. The assessment of all counties properly made, but after the time required by law, are hereby legalized.

<sup>1</sup> Passed Jan. 26, 1855. (See Second Reg. Sess. 1854-55, p. 40.)

**No. 1147.—AN ACT FOR THE RELIEF OF THE COUNTY OF SKAMANIA.<sup>1</sup>**

§ 1. **Assessment, 1854.**—SECTION 1. *Be it enacted, etc.,* That the official acts of Henry Shepard, as county assessor for the county of Skamania, for the year 1854, be and the same are hereby declared legal.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 31, 1856. (See Third Reg. Sess. 1855-56, p. 19.) In effect from date.

**No. 1148.—AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING OF COUNTY AND TERRITORIAL REVENUE IN COUNTIES KNOWN AS SLAUGHTER AND JEFFERSON.<sup>1</sup>**

§ 1. **When Taxes Payable.**—SECTION 1. *Be it enacted, etc.,* That all persons liable to taxation in the counties known as Slaughter and Jefferson shall, before the first day of July in each year, pay their taxes to the county treasurer.

<sup>1</sup> Passed Jan. 26, 1857. (See Fourth Reg. Sess. 1856-57, p. 53.)

**No. 1149.—AN ACT TO LEGALIZE THE ASSESSMENT OF CHEHALIS COUNTY, AND OTHER COUNTIES.<sup>1</sup>**

§ 1. **Assessment, 1856.**—SECTION 1. *Be it enacted, etc.,* That the assessment made by James H. Whitcomb, in Chehalis county, in the year eighteen hundred and fifty-six, though not made at the time required by an act providing for the collecting county and Territorial revenue, shall not be invalid on that account, but is hereby legalized.

§ 2. **All Assessments Legalized.**—SEC. 2. The assessment of all counties, but after the time required by law, are hereby legalized.

<sup>1</sup> Passed Jan. 27, 1857. (See Fourth Reg. Sess. 1856-57, p. 54.)

**No. 1150.—AN ACT TO LEGALIZE THE ASSESSMENT OF WAHKIACUM COUNTY.<sup>1</sup>**

§ 1. **Assessment, 1859.**—SECTION 1. *Be it enacted, etc.,* That the assessment made by Ralph C. A. Elliot, in Wahkiacum county, for the year eighteen hundred and fifty-nine, though not made at the time required by law, be and the same is hereby declared valid, to all intents and purposes, as if made at the proper time.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 7, 1860. (See Seventh Reg. Sess. 1859-60, p. 425.) In effect from date.

**No. 1151.—AN ACT TO LEGALIZE THE ASSESSMENT OF PACIFIC COUNTY.<sup>1</sup>**

§ 1. **Assessment, 1859.**—SECTION 1. *Be it enacted, etc.,* That the assessment made by E. Ward Pell, in Pacific county, for the year eighteen hundred and fifty-nine, though not made at the time required by an act to provide for the assessing and collecting of county and Territorial revenue, be and the same is hereby declared valid to all intents and purposes, as if made at the proper time.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 9, 1860. (See Seventh Reg. Sess. 1859-60, p. 425.) In effect from date.

**No. 1152.—AN ACT TO REGULATE THE COUNTY TAX OF KITSAP COUNTY.<sup>1</sup>**

§ 1. **Road Taxes.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of the county of Kitsap be and are hereby authorized, at their May session, to assess a tax \* \* \* of twenty cents on every one hundred dollars of all real estate.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1860. (See Seventh Reg. Sess. 1859-60, p. 457.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 1153.—AN ACT TO REGULATE THE COUNTY ROAD TAX OF COWLITZ COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the county commissioners of the county of Cowlitz be and are hereby authorized, at their May session, \* \* \* to assess a tax of twenty cents on every one hundred dollars of property valuation as returned by the county assessor.

<sup>1</sup> Passed Jan. 31, 1860. (See Seventh Reg. Sess. 1859-60, p. 469.)

**No. 1154.—AN ACT TO ABOLISH THE OFFICE OF ASSESSOR OF THURSTON COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That hereafter the sheriff of Thurston county shall be *ex-officio* assessor for said county, and the office of assessor, so far as it relates to said county, is hereby abolished.

<sup>1</sup> Passed Jan. 21, 1861. (See Eighth Reg. Sess. 1860-61, p. 25.)

**No. 1155.—AN ACT TO ABOLISH THE OFFICE OF ASSESSOR IN THE COUNTIES OF SAWAMISH, PIERCE, SNOHOMISH, LEWIS, WHATCOM, CLALLAM, JEFFERSON AND SPOKANE.<sup>1</sup>**

§ 1. **Sheriff Shall Perform Duties.**—SECTION 1. *Be it enacted, etc.,* That hereafter the sheriffs of Sawamish, Pierce, Snohomish, Lewis, Whatcom, Clallam, Jefferson and Spokane counties, shall be *ex-officio* assessor for the aforesaid counties; and shall receive for performing the duties of assessor the same compensation heretofore allowed to the assessor, and the office of assessor so far as it relates to said counties is hereby abolished.

§ 2. **Repealing Clause.**—SEC. 2. All acts or parts of acts conflicting with the foregoing be and the same are hereby repealed: *Provided,* That said repeal shall in no manner interfere with the duties and responsibilities of said assessors heretofore incurred.

<sup>1</sup> Passed Jan. 3, 1862. (See Ninth Reg. Sess. 1861-62, p. 6.)



**No. 1156.—AN ACT IN RELATION TO THE OFFICE OF ASSESSOR IN KITSAP COUNTY.<sup>1</sup>**

§ 1. **Sheriff Ex-Officio Assessor.**—SECTION 1. *Be it enacted, etc.,* That the sheriff of Kitsap county, in the Territory of Washington, shall be *ex-officio* assessor of said county and shall fulfill all the duties required by law to be fulfilled by the assessor of said county, and he shall be governed by all the laws in relation to assessor in said county.

§ 2. **Repealing Clause.**—SEC. 2. All acts or parts of acts, in conflict with this act are hereby repealed, so far as the same relates to said county

§ 3. **Date in Effect.**—SEC. 3. This act to take effect and be in force from and after the first day of July, A. D. 1862.

<sup>1</sup> Passed Jan. 10, 1862. (See Ninth Reg. Sess. 1861-62, p. 73.)

**No. 1157.—AN ACT TO AUTHORIZE THE DIRECTORS OF SCHOOL DISTRICT NO. SIX, IN CLARKE COUNTY, TO LEVY A SPECIAL TAX.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the directors of school district No. six, in Clarke county, be and they are hereby authorized, to levy a special tax of not to exceed three and one-half mills on the dollar's valuation of the taxable property in said district, as returned by the assessor of the city of Vancouver, for the year 1861.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1862. (See Ninth Reg. Sess. 1861-62, p. 131.) All conflicting acts repealed.

**No. 1158.—AN ACT TO AUTHORIZE COUNTY COMMISSIONERS OF WALLA WALLA COUNTY TO LEVY A DIRECT TAX.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That special power be and hereby is granted to the county commissioners of Walla Walla county to levy a direct tax of three mills on the dollar of all taxable property in said county for the purpose of liquidating the indebtedness of said county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 15, 1863. (See Tenth Reg. Sess. 1862-63, p. 40, Local Laws.) In effect from date.

**No. 1159.—AN ACT TO REGULATE THE ROAD TAX OF KITSAP COUNTY.<sup>1</sup>**

§ 1. **Amount.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of the county of Kitsap be and are hereby authorized, at their May session, \* \* \* to assess a tax of twenty cents on every one hundred dollars of all real estate.

\* \* \* \* \*

§ 2. **Duties of Supervisor.**—SEC. 3. The supervisors of roads in said county are hereby authorized and empowered to collect all road tax in their respective road district, for which purpose they are fully authorized to enforce the payment of the same, in accordance with the provisions of the general road law.

§ 3. **Warrant for Collection.**—SEC. 4. The county auditor shall, at the time of delivering said abstract or tax list, append a warrant thereto for the collection of the same.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 20, 1863. (See Tenth Reg. Sess. 1862-63, p. 30, Local Laws.) All inconsistent acts or parts of acts repealed. In effect from date.

**No. 1160.—AN ACT ABOLISHING THE CREATION OF THE SEPARATE FUND NOW KNOWN AS THE "COURT FUND" OF PIERCE COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the county of Pierce be exempt from all laws and parts of laws heretofore passed providing for the assessing and collecting of a separate and distinct tax, set apart and designated as a "court fund," be and the same are hereby repealed, so far as the same shall be applicable to the county of Pierce, and said fund known as the "court fund" be and the same is hereby abolished in said county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 21, 1863. (See Tenth Reg. Sess. 1862-63, p. 32, Local Laws.) In effect from date.

**No. 1161.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF WALLA-WALLA COUNTY TO LEVY A DIRECT TAX.<sup>1</sup>**

§ 1. **Amount.**—SECTION 1. *Be it enacted, etc.*, That special power be and is hereby granted to the county commissioners of Walla-walla county to levy a direct tax of seven mills on the dollar on all the taxable property in said county, for the purpose of liquidating the indebtedness of said county.

§ 2. **To be Submitted to Vote.**—SEC. 2. The county commissioners, before the levying of said tax, shall submit the amount of tax they think advisable to levy (not exceeding seven mills) to the voters of Walla-walla county at the next annual election, and if the majority of all the votes cast be in favor of such tax, then the said county commissioners shall make suitable provisions for carrying out the provisions of this act.

§ 3. **Date in Effect.**—SEC. 3. This act to be in force for one year after it is ratified by a majority of the voters of Walla-walla county.

<sup>1</sup> Passed Jan. 12, 1864. (See Eleventh Reg. Sess. 1863-64, p. 87.)

**No. 1162.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF SKAMANIA COUNTY TO COLLECT ALL ROAD TAX THAT MAY BE FOUND DUE SAID COUNTY FOR THE YEAR 1863.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That all road taxes that may be found due in Skamania county for the year 1863, and not collected, it shall be lawful to collect the same in the year 1864. And it shall be the duty of the board of county commissioners of said county at their June session in 1864, to levy and assess the same in addition to the road tax assessed for said year of 1864; and said road tax so levied and assessed shall be collected in the same manner as is provided by law for the collection of other road taxes in this Territory.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 16, 1864. (See Eleventh Reg. Sess. 1863-64, p. 72.) In effect from date.

**No. 1163.—AN ACT CONFERRING POWER AND MAKING IT THE DUTY OF THE SHERIFF OF CHEHALIS COUNTY TO PERFORM THE DUTIES OF ASSESSOR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the sheriff of Chehalis county, and his successors in office, be and they are hereby required to perform the duties of assessor in said county.

§ 2. SEC. 2. It shall not hereafter be lawful for any person other than the sheriff or his deputies, to perform the duties of assessor in said county.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 22, 1864. (See Eleventh Reg. Sess. 1863-64, p. 86.) All inconsistent acts and parts of acts repealed. In effect from date.

**No. 1164.—AN ACT TO LEGALIZE THE ACTS OF THE COUNTY COMMISSIONERS AND OTHER OFFICERS OF SNOHOMISH COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That all acts of the county commissioners, auditor and sheriff of the county of Snohomish, had and done at terms illegally held upon days not specified by law, or done at terms other than those specified by law for that particular purpose, be and the same are hereby declared legal, and of the same and no more binding force and effect than as if had and done upon days legally specified by law.

<sup>1</sup> Approved Jan. 12, 1865. (See Twelfth Reg. Sess. 1864-65, p. 67.)

**No. 1165.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF CLARKE COUNTY TO PROCURE FUNDS FOR THE ERECTION OF BUILDINGS OF THE WASHINGTON AGRICULTURAL COLLEGE IN THE COUNTY OF CLARKE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the county commissioners of Clarke county be and the same are hereby authorized to levy an annual tax not exceeding two mills on a dollar upon all assessable property within the county of Clarke, to be collected as other county tax.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 14, 1865. (See Twelfth Reg. Sess. 1864-65, p. 36.)

**No. 1166.—AN ACT TO AUTHORIZE THE COMMISSIONERS OF WALLA-WALLA COUNTY TO LEVY A DIRECT TAX.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That special power be and is hereby granted to the county commissioners of Walla-walla county to levy, for the term of three years from the passage of this act, a special tax, in their discretion, of not to exceed three mills on the dollar on all taxable property in said county, for the purpose of liquidating the indebtedness of said county.

<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 74.)

**No. 1167.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF THURSTON COUNTY TO LEVY A ROAD TAX.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the board of county commissioners of the county of Thurston be authorized \* \* \* to assess twenty-five cents road tax on every one hundred dollars of the valuation as returned by the county assessor, which tax, if not paid in labor, shall be collected as is now prescribed by law.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 21, 1865. (See Twelfth Reg. Sess. 1864-65, p. 72.) In effect from date

**No. 1168.—AN ACT TO ABOLISH THE OFFICE OF ASSESSOR IN THE COUNTY OF ISLAND.<sup>1</sup>**

§ 1. **Sheriff Shall Perform Duties.**—SECTION 1. *Be it enacted, etc.*, That the sheriff of Island county shall perform all the duties of assessor in said county.

§ 2. **Date in Effect.**—SEC. 2. This act to take effect and be in force from and after the next annual election.<sup>2</sup>

<sup>1</sup> Approved Jan. 18, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 139.)

<sup>2</sup> First Monday of June, 1866. (See chap. 2, sec. 1, of an act relating to elections, Thirteenth Reg. Sess. 1865-66, p. 24.)

**No. 1169.—AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY ASSESSOR IN LEWIS COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That at the next general election in 1866,<sup>2</sup> and every year thereafter, there shall be elected in Lewis county a county assessor, who shall hold his office for one year or until his successor is elected and qualified.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 22, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 147.) All conflicting parts of acts repealed.

<sup>2</sup> See No. 1168, *supra*, Note 2.

**No. 1170.—AN ACT TO AUTHORIZE THE VOTERS OF SCHOOL DISTRICT NO. 2, LEWIS COUNTY, TO LEVY A TAX TO BUILD A SCHOOL HOUSE.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the voters of school district No. 2, Lewis county, be and they are hereby authorized to levy sufficient tax to build a school house when the same is voted for by a majority of the voters of the district at a meeting called for that purpose by the directors.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 22, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 148.) In effect from date.

**No. 1171.—AN ACT TO ASSESS AND COLLECT A ROAD TAX IN THURSTON COUNTY, W. T.<sup>1</sup>**

§ 1. Amount.—SECTION 1. *Be it enacted, etc.*, That the board of county commissioners of Thurston county be authorized and directed, at their April term, to \* \* \* assess thirty cents road tax on every one hundred dollars of the valuation as returned by the county assessor, which tax, if not paid in labor, shall be collected as is prescribed by law.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 24, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 150.) In effect from date.

**No. 1172.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED AN ACT TO PROVIDE FOR THE ASSESSING AND COLLECTING TERRITORIAL AND COUNTY REVENUE" SO FAR AS IT RELATES TO LEWIS COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the act to which this is amendatory be so amended as to strike out in section eight of said act the words "day of January," and insert the words "first Monday of May," and in section nine strike out the word "March" and insert the words "second Monday in July."

\* \* \* \* \*

<sup>1</sup> Approved Jan. 11, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 163.) In effect from date.

**No. 1173.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT IN RELATION TO THE COUNTY OF SKAMANIA."<sup>1</sup>**

§ 1. Act of 1865 Repealed.—SECTION 1. *Be it enacted, etc.*, That the act entitled "an act in relation to the county of Skamania," approved January 14, 1865,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 28, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 165.) In effect from date.

<sup>2</sup> See No. 991, *supra*.

§ 2. **Collection of Taxes.**—SEC. 2. All the acts of the officers of Skamania county, done contrary to the provisions of the act to which this is a repealing act, be and the same are hereby legalized; and said officers of said county have and they are hereby granted full power for the collection of delinquent taxes that became due during the operation of said act.

\* \* \* \* \*

**No. 1174.—AN ACT IN RELATION TO THE PUBLIC ROADS IN STEVENS COUNTY.<sup>1</sup>**

§ 1. **Amount of Tax.**—SECTION 1. *Be it enacted, etc.,* That it shall be the duty of the county commissioners of Stevens county at their May term, to levy and assess a road tax of \* \* \* not less than five nor more than ten mills on the dollar of the valuation as determined by the county assessor, which tax if not paid in labor shall be collected with the county and Territorial tax, and in a like manner.

\* \* \* \* \*

§ 2. **Repealing Clause.**—SEC. 5. That all acts or parts of acts in conflict with this act are hereby repealed, so far as they extend to Stevens county.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 30, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 172.) In effect from date.

**No. 1175.—AN ACT IN RELATION TO ROAD TAX IN KITSAP COUNTY.<sup>1</sup>**

§ 1. **Amount.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of Kitsap county shall, at their next regular session, levy and assess a tax \* \* \* of twenty cents on every one hundred dollars valuation of property, and the same, if not paid in cash, or performed by labor, shall be collected by the road supervisor, who shall have all the power of collection of the sheriff of said county.

§ 2. **General Law in Force.**—SEC. 2. In all other respects the general road law of this Territory shall apply to said county of Kitsap.

\* \* \* \* \*

<sup>1</sup> Approved January 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 167.) In effect from date.

**No. 1176.—AN ACT EXEMPTING CLARKE COUNTY FROM DELINQUENT TAXES ASSESSED IN SKAMANIA COUNTY IN THE YEARS 1865 AND 1866.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That all delinquent taxes assessed by the county of Clarke in the county of Skamania in the years 1865 and 1866, shall be stricken from the tax rolls of the said county.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 158.) All conflicting acts or parts of acts repealed. In effect from date.

**No. 1177.—AN ACT AUTHORIZING THE SCHOOL DIRECTORS OF SCHOOL DISTRICT NUMBER SIX, IN CLARKE COUNTY, W. T., TO LEVY A SPECIAL TAX FOR SCHOOL PURPOSES.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, At a regular meeting of the electors of school district number six, in Clarke county, W. T., a resolution was

<sup>1</sup> Approved Jan. 31, 1867. (See Fourteenth Reg. Sess. 1866-67, p. 158.) In effect from date.



passed requesting the legislative assembly of Washington Territory to authorize the directors of said school district to levy a special tax in said district sufficient to maintain a public school in said district the whole year; therefore,

§ 2. **Amount.**—SECTION 1. *Be it enacted, etc.,* That the directors of school district number six, in Clarke county, be and are hereby authorized to levy a special tax not exceeding six mills on the dollar, on the valuation of the taxable property in said district as returned by the assessors of Clarke county for the year A. D. 1867.

§ 3. **Name of Assessment.**—SEC. 2. The said tax shall be levied by the said directors before the completion of the general annual tax list of the present year, and it shall be the duty of the directors to inform the proper person making the said tax list of the amount of tax levied, which tax shall be assessed against the taxpayers of said district according to the valuation of their property upon the general tax list, and shall be collected in the same manner as county and Territorial taxes are collected, and all laws applying to the collection of county and Territorial taxes, shall also apply to the special school tax levied according to the provisions of this act.

§ 4. **Saving Clause.**—SEC. 3. This act shall not be construed to repeal or disturb any law now existing and providing for the collection of taxes for the benefit of common schools in said district.

\* \* \* \* \*

**No. 1178.—AN ACT PROVIDING A FUND FOR EXTINGUISHING THE INDEBTEDNESS OF CLARK COUNTY AND TO PROVIDE FOR THE PAYMENT OF CURRENT EXPENSES.<sup>1</sup>**

§ 1. **Amount of Tax.**—SECTION 1. *Be it enacted, etc.,* That, to provide a fund for the payment of the indebtedness of Clark county, and to meet the current expenses of the same, the county commissioners of said county shall, at the terms of court at which they are now required to levy a tax for revenue purposes, levy a tax of five mills on every hundred dollars' worth of taxable property, for the purpose of liquidating the indebtedness of said county, in the manner hereinafter provided, and a tax not exceeding five mills, to meet the current expenses of said county.

\* \* \* \* \*

§ 2. **Repealing Clause.**—SEC. 8. That all the provisions relative to road, school and other taxes, shall be and remain as now provided by law, except as they may be affected by this act, and that all acts and parts of acts only that may be inconsistent with the provisions of this act, are hereby repealed, and this act shall take effect and be in force from and after its passage.

<sup>1</sup> Approved Jan. 29, 1868. (See First Blen. Sess. 1867-68, p. 103.)

**No. 1179.—AN ACT TO ASSESS A TAX AND PROVIDE FOR THE BUILDING OF A BRIDGE OVER THE DUNGENESS RIVER, IN CLALM COUNTY.<sup>1</sup>**

§ 1. **Amount.**—SECTION 1. *Be it enacted, etc.,* That it shall be the duty of the county commissioners of the county of Clalm to levy a special tax of not more than five mills on each dollar of all the taxable property of the county of Clalm, payable in legal tender notes, and that the money arising from said tax shall be applied to the building of a good substantial bridge over the Dungeness river, in Clalm County.

§ 2. **Manner of Assessment and Collection.**—SEC. 2. The county assessor of said county shall assess and collect the said tax at the same time and in the same manner as other taxes are assessed and collected.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 30, 1868. (See First Blen. Sess. 1867-68, p. 82.) In effect from date.

**No. 1180.—AN ACT AUTHORIZING A SPECIAL TAX IN THE COUNTY OF CLARKE TO PAY THE INDEBTEDNESS OF SAID COUNTY.<sup>1</sup>**

**§ 1. Levy and Amount.**—SECTION 1. *Be it enacted, etc.,* That it shall be the duty of the board of county commissioners of the county of Clarke at the November term, A. D. 1869, of said board to levy a special tax collectible and payable the present year, on the assessment of said year, of one and one-half per centum on every dollar's worth of taxable property of said county, as shown by the assessment roll of said county for the year 1869, to be collected and paid in the same manner that other taxes are, except so far as the same may be changed by the provisions of this act, which special county tax shall be applied exclusively to the payment of the indebtedness of said county of Clarke: *Provided, however,* That said tax may be paid in county warrants, and in the case of the payment of any money on said tax the money so paid shall be applied to the payment of the county orders of said county in the order of their priority.

**§ 2. When Delinquent—Manner of Assessment.**—SEC. 2. All persons liable to taxation under the provision of section one of this act may, at any time before the first day of March, 1870, and until the sheriff shall have received the schedule of unpaid taxes as in this section hereinafter provided, pay the tax prescribed by said section one to the county treasurer, and the said county treasurer shall within ten days after the said first day of March, 1870, make out a schedule of such unpaid special tax in the form of a duplicate assessment roll, verified by his affidavit, and deliver the same to the county auditor, who shall add ten per cent. to the amount of such unpaid taxes, and forthwith issue a transcript of such schedule with said ten per cent. added to such unpaid taxes, with a warrant attached thereto in the name of the United States, under his hand and seal of office, directed to the sheriff of said county of Clarke, commanding him to collect the taxes designated in such transcript by demanding payment of the persons charged therein, and making sale of the real estate, goods and chattels and other personal property of such persons if necessary, in like manner as prescribed by law for the collection of other taxes by said sheriff, and return the same to such county auditor on or before the thirtieth day of April next ensuing thereafter, and such county auditor shall charge said sheriff with the amount of money collected on such transcript.

**§ 3. Annual Levy.**—SEC. 3. It shall be the duty of said board of county commissioners each year at their May term for the period of four years succeeding the passage of this act, unless said indebtedness shall be sooner extinguished, to levy a special tax of not to exceed one and one-half per centum and not less than one per centum in any one year on every dollar's worth of taxable property in said county, which special tax shall be exclusively applied to the payment of the outstanding indebtedness of said county.

**§ 4. General Law to Control Assessment, etc.**—SEC. 4. The special tax provided for by this act, except for the present year as provided in section one, shall be levied and collected in the same manner as other taxes are levied and collected under the provisions of the law regulating the assessment and collection of Territorial and county revenue; but such special tax shall be a separate and distinct fund from the tax levied for county purposes under the provisions of the law regulating the assessment and collection of Territorial and county revenue, but may be paid or credited upon county orders, as is now provided by law for the payment of other county taxes.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 30, 1869. (See Second Bien. Sess. 1869, p. 456.) In effect from date.

§ 5. **Repealing Clause.**—SEC. 6. The act entitled an “act providing a fund for extinguishing the indebtedness of Clarke county and to provide for the payment of current expenses,” approved January 29, 1868,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>2</sup> See No. 1178, *supra*.

**No. 1181.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF ISLAND COUNTY TO LEVY A SPECIAL TAX FOR THE ERECTION OF A COURT HOUSE.<sup>1</sup>**

§ 1. **Amount.**—SECTION 1. *Be it enacted, etc.*, That the board of county commissioners of Island county, Washington Territory, be and they are hereby authorized and empowered to levy a special tax upon all the taxable property of said county, of three mills on the dollar, to be applied to the erection of a court house for said county: *Provided*, That the general law relating to the powers of county commissioners to levy a tax, shall not abridge the powers herein conferred.

§ 2. **Levy.**—SEC. 2. The board of county commissioners of said Island county shall proceed at their first regular session after the passage of this act, to levy the tax in accordance with the provisions and for the purposes specified in section first of this act.

§ 3. **Manner of Collection, etc.**—SEC. 3. The tax levied in accordance with the provisions of this act, shall be levied and collected in like manner and governed by the same laws as other taxes in this Territory are levied and collected.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 30, 1869. (See Second Blen. Sess. 1869, p. 469.) In effect from date.

**No. 1182.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF JEFFERSON COUNTY TO LEVY A SPECIAL SCHOOL TAX.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*, That special power be and is hereby granted to the county commissioners of Jefferson county to levy a special school tax not to exceed five mills on the dollar upon the assessed value of the real and personal property in said county subject to taxation, to be collected in the same manner as is or may be hereafter provided by law for the collection of Territorial and county taxes, for the purpose of raising funds sufficient to keep the public schools open nine months during each year.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 25, 1869. (See Second Blen. Sess. 1869, p. 464.)

**No. 1183.—AN ACT TO REGULATE THE RAISING OF REVENUE FOR ROAD PURPOSES IN WALLA WALLA COUNTY.<sup>1</sup>**

§ 1. **Levy and Amount.**—SECTION 1. *Be it enacted, etc.*, That it shall be the duty of the board of county commissioners of Walla Walla county, at the session now required by law to levy Territorial, school and county taxes in each year, to levy on all the taxable property of said county one-half of one mill on the assessed value of said property, for road purposes.

§ 2. **In Lieu of General Law.**—SEC. 2. That the tax provided for in the foregoing section is in lieu of the three mills now required by law for road purposes as aforesaid, and shall be collected each year by the tax

<sup>1</sup> Approved Nov. 25, 1871. (See Third Blen. Sess. 1871, p. 136.)

collector of said county, at the same time and in the same manner that other taxes are collected by law.

\* \* \* \* \*

§ 3. **Date in Effect, etc.**—SEC. 6. This act to take effect and be in force from and after the first day of January, A. D. 1872: *Provided*, That this act shall not be construed to affect in any way the collection of taxes already levied in said county, by existing laws.

**No. 1184.—AN ACT IN RELATION TO SHERIFFS OF PACIFIC, YAKIMA, KITSAP, SKAMANIA, WHATCOM, SNOHOMISH, CLALM AND STEVENS COUNTIES.<sup>1</sup>**

§ 1. **Sheriff Shall Perform Duties of Assessor.**—SECTION 1. *Be it enacted, etc.*, That the sheriffs of the counties of Pacific, Yakima, Kitsap, Skamania, Whatcom, Snohomish, Clalm and Stevens, in the Territory of Washington, shall be *ex-officio* assessors of said counties and shall perform all the duties required by law to be performed by assessors, and they shall be governed by all the laws in relation thereto.

\* \* \* \* \*

§ 2. **Date in Effect.**—SEC. 3. This act to take effect and be in force from and after the first day of January, A. D. 1872.

<sup>1</sup> Approved Nov. 27, 1871. (See Third Bien. Sess. 1871, p. 196.)

**No. 1185.—AN ACT MAKING SHERIFFS OF YAKIMA, KLIKITAT, JEFFERSON AND KITSAP COUNTIES EX-OFFICIO ASSESSORS OF SAID COUNTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the sheriffs of Yakima, Klikitat, Jefferson and Kitsap counties, Washington Territory, shall be *ex-officio* assessors of said counties, and shall fulfill all the duties required by law to be fulfilled by the assessors of said counties, and they shall be governed by all the laws relating to the same.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 155.) In effect from date.

**No. 1186.—AN ACT MAKING THE SHERIFFS OF PIERCE AND THURSTON COUNTIES EX-OFFICIO ASSESSORS OF SAID COUNTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the sheriffs of Pierce and Thurston counties, Washington Territory, shall be *ex-officio* assessors of said counties and shall fulfill all the duties required by law, to be fulfilled by the assessors of said counties, and they shall be governed by all the laws relating to the same.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 175.) In effect from date.

**No. 1187.—AN ACT AUTHORIZING THE TERRITORIAL AUDITOR TO CANCEL CERTAIN DELINQUENT TAX CHARGED AGAINST MASON COUNTY.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, There stands charged against Mason county Territorial tax prior to January 1, 1867, which has never been collected nor ever will be, to the amount of two hundred and ninety-two dollars; therefore,

§ 2. **Cancellation.**—SECTION 1. *Be it enacted, etc.*, That the Territorial Auditor be and the same is hereby instructed to cancel said charge (\$292) incurred prior to January 1, 1867.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 201.) In effect from date.

**No. 1187½.—AN ACT IN RELATION TO ROAD TAX IN KITSAP COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. SEC. 6. The amount of road tax to be \* \* \* fifteen cents on every one hundred dollars of valuation of property.

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 180.) In effect from date.

**No. 1188.—AN ACT MAKING THE SHERIFF OF MASON COUNTY ASSESSOR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That from and after the passage of this act the sheriff of Mason county shall be *ex-officio* assessor of said county.

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 173.) All conflicting acts and parts of acts repealed.

**No. 1189.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT AUTHORIZING A SPECIAL TAX FOR THE COUNTY OF CLARKE, TO PAY THE INDEBTEDNESS OF SAID COUNTY," APPROVED OCTOBER 80, 1869.<sup>1</sup>**

§ 1. **Annual Levy.**—SECTION 1. *Be it enacted, etc.*, That section three of said act<sup>2</sup> shall read as follows: "Sec. 3. It shall be the duty of said board of county commissioners each year at their May term, for the period of four years succeeding the passage of this act, unless said indebtedness shall be sooner extinguished, to levy a special tax of three-quarters of one per centum on every dollar's worth of taxable property in said county, which special tax shall be exclusively applied to the payment of the outstanding indebtedness of said county, according to priority of date."

<sup>1</sup> Approved Nov. 29, 1871. (See Third Bien. Sess. 1871, p. 187.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 1180, *supra*.

**No. 1190.—AN ACT TO ENCOURAGE THE PLANTING AND GROWING OF TIMBER IN THE COUNTIES OF STEVENS AND WHITMAN.<sup>1</sup>**

§ 1. **Exemption From Taxation.**—SECTION 1. *Be it enacted, etc.*, That the board of commissioners of the respective counties of Stevens and Whitman are hereby empowered at their May meeting, A. D. 1874, and at their November meeting in each year thereafter to exempt from taxation, except for Territorial purposes, the real or personal property of each taxpayer who shall, within the county within such year, plant and suitably cultivate, or having within such year, or the preceding year, planted, shall suitably cultivate one or more acres of forest trees for timber, to an amount not exceeding three hundred dollars for each acre: *Provided*, That said board may fix the minimum number of trees which shall be grown on each acre.

§ 2. **How Benefits Secured.**—SEC. 2. Any person claiming the benefit of such exemption may appear before the board of commissioners of the county at any regular meeting, and upon making proof by sworn evidence, showing to the satisfaction of said board that he has complied with the requirements which entitle him to such exemption, he shall receive from the clerk of the board a certificate stating the amount of the exemption, which shall be received by the county treasurer in satisfaction of the taxes exempted.

<sup>1</sup> Approved Nov. 14, 1873. (See Fourth Bien. Sess. 1873, p. 558.) In effect from date.



**No. 1191.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN RELATION TO ROAD TAX IN KITSAP COUNTY," APPROVED NOV. 29, 1871.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That section six of the act to which this act is amendatory<sup>2</sup> shall read as follows: "The amount of road tax shall be \* \* \* fifteen cents on every one hundred dollars of the assessed valuation of property."

\* \* \* \* \*

<sup>1</sup> Approved Nov. 6, 1875. (See Fifth Bien. Sess. 1875, p. 216.) In effect from date.

<sup>2</sup> See No. 1187, *supra*.

**No. 1192.—AN ACT IN RELATION TO SHERIFF OF KICKITAT COUNTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That so much of an act of the legislative assembly approved November 29, 1871, making sheriffs *ex-officio* assessors in certain counties be repealed so far as the same applies to Klickitat county.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 215.) In effect from date.

**No. 1193.—AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY COMMISSIONERS AND COUNTY ASSESSORS OF KING COUNTY, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Assessing Districts.**—SECTION 1. *Be it enacted, etc.*, That the county of King shall be divided into three districts to be known as "assessing districts," from each of which districts shall be elected one commissioner and one assessor by the votes of said district.

§ 2. **Equalization of the Voting Districts.**—SEC. 2. That the voting precincts of Seattle and Freeport shall be one "assessing district," and the board of county commissioners of King county shall, at the May term for A. D. 1876, divide the balance of the county by precincts into two other districts, the one on the south and the other on the north sides of the county, and the intervening precincts assigned to the one or the other in such a manner as to make the voting population of each as nearly equal as possible.

§ 3. **Who to be Elected.**—SEC. 3. At the next general Territorial election, and at every election for county officers thereafter, there shall be elected one county commissioner and one assessor from each of said districts who shall be residents of their respective districts.

§ 4. **County Commissioners' Duties.**—SEC. 4. The county commissioners, when so elected and qualified, shall perform the duties of commissioners as now provided by law.

§ 5. **Assessors' Duties.**—SEC. 5. The assessors elected, as provided in section three of this act, after being duly qualified shall assess their respective districts as now required by law.

§ 6. **Assessments.**—SEC. 6. They shall constitute a court of appeals with whom all complaints shall be filed on or before the second Monday of April of each year, at which time they shall hold a special session for the adjustment of all complaints in relation to assessments, and their adjustment shall be final.

§ 7. **Filing of Assessment Rolls.**—SEC. 7. They shall make or cause to be made a certified copy of their assessment rolls of the county and file the same with the county auditor on or before the first Monday of May of each year.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 202.)

§ 8. **Repealing Clause.**—SEC. 9. All acts and parts of acts in conflict with this act, are hereby repealed.

§ 9. **Date in Effect.**—SEC. 10. This act to take effect and be in force from and after January 1, 1876.

**No. 1194.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF WHITMAN COUNTY TO LEVY A SPECIAL TAX.<sup>1</sup>**

§ 1. **To be Submitted to Vote.**—SECTION 1. *Be it enacted, etc.,* That at the next general election the commissioners of said county shall submit the proposition to the voters of said county to levy a special tax of five mills on the dollar on all taxable property of said county.

\* \* \* \* \*

§ 2. **When May be levied.**—SEC. 4. If a majority of the votes cast be in favor of said tax the commissioners of said county shall levy said tax, which shall be collected as other tax.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 199.) In effect from date.

**No. 1195.—AN ACT TO PROVIDE FOR THE ERECTION OF A JAIL IN KING COUNTY.<sup>1</sup>**

§ 1. **Duties of Commissioners.**—SECTION 1. *Be it enacted, etc.,* That the board of county commissioners of King county be and are hereby authorized and directed to purchase the necessary grounds therefor, and to build and erect at the city of Seattle a good and substantial county jail.

\* \* \* \* \*

§ 2. **Levy and Amount of Tax for.**—SEC. 6. For the purpose of providing funds for the purchase of grounds and erecting such building, the said board is hereby \* \* \* empowered and required to levy a special tax of not more than three mills on each dollar on the taxable property in said county for 1876, and a tax not exceeding said vote of three mills, if necessary, in 1877, to pay any balance remaining unpaid, said taxes to be levied and collected in the same manner as the county tax is levied and collected.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 210.) In effect from date.

**No. 1196.—AN ACT AUTHORIZING THE COMMISSIONERS OF CLARK COUNTY TO LEVY A SPECIAL TAX FOR SCHOOL PURPOSES.<sup>1</sup>**

§ 1. **Levy and Amount.**—SECTION 1. *Be it enacted, etc.,* That section two of chapter two of an act establishing a common school system for the Territory of Washington, approved November 14, 1873,<sup>2</sup> be amended so as to read as follows: "For the purpose of establishing and maintaining common schools, it shall be the duty of the county commissioners of Clarke county to levy an annual tax of six (6) mills on a dollar on all taxable property of the county, as shown by the assessment rolls made by the county assessor for the same year, and to include the same in their warrant to the collector, and the said collector shall proceed to collect the said tax in the same manner as other county tax is collected, and the said money so collected shall be paid over to the county treasurer to be apportioned and appropriated for the hire of school teachers in the several school districts, to be drawn as provided in the general school law; neither shall it be lawful for any county treasurer to receive county or-

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Bien. Sess. 1875, p. 207.) In effect from date.

ders in payment for county school tax, nor to pay out any school money on county orders."

§ 2. **Power of District Meeting.**—SEC. 2. That section four of section<sup>2</sup> five be amended so as to read as follows, that is to say: "District meeting legally called, shall have power, by a vote of a majority present, to levy a tax on the property of the district not to exceed eight mills on a dollar, four mills of said tax shall be used for the purpose of building and keeping in repair school houses, and the remaining four mills to be used for the purpose of hiring teachers: *Provided*, That no district shall levy more than one special tax in one year."

§ 3. **Scope of this Act.**—SEC. 3. This act to apply to Clarke county only.

§ 4. **Repealing Clause.**—SEC. 4. All acts or parts of acts in conflict with the provisions of this act, so far as they relate to Clarke county, are hereby repealed.

\* \* \* \* \*

<sup>2</sup> See Nos. 699 and 696, *supra*.

**No. 1197.—AN ACT TO PROVIDE FOR THE EQUALIZATION OF TAXES IN KING COUNTY FOR THE YEAR ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SEVEN.<sup>1</sup>**

§ 1. **Special Session of Commissioners.**—SECTION 1. *Be it enacted, etc.*, That the board of commissioners of King county shall hold a special session, commencing on the twenty-ninth day of October, one thousand eight hundred and seventy-seven, for the equalization of taxes in said county for the year one thousand eight hundred and seventy-seven.

§ 2. **Powers of Board.**—SEC. 2. The assessment roll for one thousand eight hundred and seventy-seven, shall be returned to said board by the assessors of said county on or before the first day of said session. All complaints in regard to assessments made by said assessors must be made to and determined by said board of commissioners at said session; and said board shall at said session make all necessary corrections and alterations in said assessment roll; and all appraisements of property made by said assessors that may be found to be either above or below the average valuation of property of the same kind according to the appraisements of said assessors shall be raised or reduced as the case may require in order to make taxation in said county equal and uniform.

§ 3. **Notice.**—SEC. 3. Public notice of said special session of said board and the purpose thereof shall be given by publication in the weekly edition of each of the three newspapers now published in said county, at least ten days prior to said twenty-ninth day of October, one thousand eight hundred and seventy-seven.

§ 4. **Collection, etc.**—SEC. 4. When the board shall have finally passed upon and approved the assessment roll it shall be certified and signed by the president of the board; and within twenty days thereafter the county auditor of said county shall transmit to the Territorial auditor a certified statement of the total value of all property real and personal as shall appear by said assessment roll; and shall estimate the amount of taxes due on the valuation of property in said county and shall make a duplicate assessment roll and deliver a copy thereof to the treasurer of said county and charge said treasurer with the amount of taxes to be collected on said roll as required by the general law of the Territory relating to the assessment and collection of taxes.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 8, 1877. (See Sixth Bien. Sess. 1877, p. 427.) In effect from date.

**No. 1198.—AN ACT TO ENCOURAGE THE PLANTING AND GROWING OF TIMBER IN THE COUNTIES OF STEVENS AND WHITMAN.<sup>1</sup>**

§ 1. **Exemption From Taxation.**—SECTION 1. *Be it enacted, etc.,* That the board of commissioners of the respective counties of Stevens and Whitman are hereby required at their May meeting, A. D. 1878, and at each regular spring term thereafter, to exempt from taxation except for Territorial purposes the real or personal property of each taxpayer who shall within the county within such year plant and suitably cultivate, or having within such year or the preceding year planted shall suitably cultivate, one or more acres of forest trees for timber to an amount not exceeding three hundred dollars (\$300): *Provided,* That said board may fix the minimum number of trees which shall be grown on each acre.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 27, 1877. (See Sixth Bien. Sess. 1877, p. 411.) All conflicting acts repealed. In effect from date.

**No. 1199.—AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF STEVENS COUNTY TO LEVY A SPECIAL TAX FOR BRIDGE PURPOSES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the county commissioners of Stevens county are hereby authorized to levy a special tax upon the assessable property of said county for the purpose of building a bridge across the Spokane river at or near Spokane Falls.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 30, 1877. (See Sixth Bien. Sess. 1877, p. 399.) In effect from date.

**No. 1200.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO REGULATE THE COLLECTION AND DISBURSEMENT OF ROAD AND ROAD POLL TAX IN KING COUNTY, WASHINGTON TERRITORY," APPROVED NOVEMBER 12TH, 1875.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the act of the legislative assembly of Washington Territory, approved November 12th, 1875, entitled "an act to regulate the collection and disbursement of road and road poll tax in King county, Washington Territory,"<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 30, 1877. (See Sixth Bien. Sess. 1877, p. 412.) In effect from date.

<sup>2</sup> See No. 1193, *supra*.

**No. 1201.—AN ACT TO PROVIDE FOR THE APPOINTMENT OF A COUNTY ASSESSOR IN THE COUNTY OF PIERCE AND DEFINING HIS DUTIES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That at the regular meeting in November, A. D. one thousand eight hundred and seventy-eight, of the board of county commissioners of the county of Pierce, and at each November term thereof, there shall be appointed in said county a county assessor, who shall have the qualifications of a voter, and shall continue in office for one year and until his successor is appointed and qualified.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 6, 1877. (See Sixth Bien. Sess. 1877, p. 403.) All conflicting acts repealed.

**No. 1202.—AN ACT EXTENDING THE TIME FOR THE COLLECTION OF TAXES IN KING COUNTY, W. T.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, By an act of the legislative assembly of the Territory of Washington, approved October 8th, 1877,<sup>2</sup> it was pro-

<sup>1</sup> Approved Nov. 6, 1877. (See Sixth Bien. Sess. 1877, p. 420.) In effect from date.

<sup>2</sup> See No. 1197, *supra*.

vided that the board of commissioners of King county, Washington Territory, hold a special meeting, commencing on the 9th day of October, 1877, for the equalization of the taxes of said county; and

WHEREAS, Under the operation of the said act it will be impossible to place the assessment rolls for the said county for the year 1877, in the hands of the treasurer for collection before the 1st day of December, 1877; thus delaying the commencement of the collection of taxes two months, and giving to the treasurer but one month to make the collection; and

WHEREAS, It will be impracticable to receive and receipt for taxes in that time, thus working a great hardship upon the taxpayers by reason of the limited time allowed for collection; now, therefore,

§ 2. **Date of Extension.**—*Be it enacted, etc.* SECTION 1. That the time allowed for the collection of taxes in King county for the year 1877, be and the same is hereby extended to the first day of February, 1878.

§ 3. **Date of Delinquency.**—SEC. 2. No tax which shall have been assessed in King county for the year 1877 shall be deemed delinquent, nor shall any penalty attach thereto for delinquency or non-payment, before the first day of February, 1878.

§ 4. **Collection.**—SEC. 3. At the expiration of the time herein allowed for the collection of taxes, the treasurer shall proceed in relation to delinquent taxes in the manner provided by law.

\* \* \* \* \*

**No. 1203.—AN ACT TO REPEAL AN ACT ENTITLED AN ACT AUTHORIZING THE COMMISSIONERS OF CLARKE COUNTY TO LEVY A TAX FOR SCHOOL PURPOSES, APPROVED NOVEMBER 12TH, 1875.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the act entitled an act authorizing the commissioners of Clarke county to levy a tax for school purposes approved November 12, 1875,<sup>2</sup> be and the same is hereby repealed.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 27, 1877. (See Sixth Bien. Sess. 1877, p. 425.) In effect from date.

<sup>2</sup> See No. 1196, *supra*.

**No. 1204.—AN ACT IN RELATION TO ROADS AND HIGHWAYS IN THE COUNTY OF JEFFERSON.<sup>1</sup>**

§ 1. **Appointment of Road Supervisor.**—SECTION 1. *Be it enacted, etc.*, That the county commissioners of the county of Jefferson shall at their regular meeting in May in each year appoint a road supervisor in each road district in said counties, who shall hold their offices for one year or until their successor [s] are appointed and qualified.

\* \* \* \* \*

§ 2. **Duties of Boards of County Commissioners.**—SEC. 17. It shall be the duty of the several boards of county commissioners of the counties named in this act at the time of levying taxes for county purposes in each year to levy and assess a road poll tax of four dollars on every male inhabitant of their respective counties between twenty-one and fifty years of age, except persons who are a public charge or too infirm to perform labor, also to levy and assess a tax of not less than two nor more than five mills on every dollar's worth of taxable property in their said counties.

§ 3. **Payment of Road and Poll Tax.**—SEC. 18. All road and road poll tax shall be paid in money, in the same manner as other taxes are paid.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 370.) All parts of acts in conflict with this act are hereby repealed. In effect from date. See also No. 669<sup>1</sup>, § 4, *supra*.



**No. 1205.—AN ACT TO REGULATE THE RAISING OF REVENUE FOR ROAD PURPOSES IN COLUMBIA AND WALLA WALLA COUNTIES.<sup>1</sup>**

§ 1. **Amount.**—SECTION 1. *Be it enacted, etc.,* That it shall be the duty of the county commissioners of Columbia and Walla Walla counties it [at] the session now required by law to levy Territorial, county and school taxes in each year, to levy on all the taxable property of said counties one mill on the assessed value for road purposes.

§ 2. **In Lieu of General Tax.**—SEC. 2. That the tax provided for in the foregoing section is in lieu of road tax now required by law for road purposes as aforesaid, and shall be collected each year by the tax collectors of said counties at the same time, and in the same manner, that other taxes are collected by law.

\* \* \* \* \*

§ 3. **Date in Effect.**—SEC. 6. This act to take effect and be in force from and after January first, one thousand eight hundred and seventy-eight: *Provided,* That this act shall not be construed to effect [affect] in any way the collection of taxes already levied in said counties by existing laws.

<sup>1</sup> Approved Nov. 9, 1877. (See Sixth Bien. Sess. 1877, p. 415.)

**No. 1206.—AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE APPOINTMENT OF A COUNTY ASSESSOR IN THE COUNTY OF PIERCE, AND DEFINING HIS DUTIES," APPROVED NOV. 6, A. D. 1877, AND DECLARING THE SHERIFF THEREOF EX-OFFICIO ASSESSOR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That an act entitled "An act to provide for the appointment of a county assessor in the county of Pierce, and defining his duties, approved Nov. 6, A. D. 1877,<sup>2</sup> be and the same is hereby repealed.

§ 2. SEC. 2. The sheriff of Pierce county shall be *ex-officio* assessor of said county, and shall perform all the duties of assessor in said county.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 4, 1879. (See Seventh Bien Sess. 1879, p. 212.) In effect from date.

<sup>2</sup> See No. 1201, *supra*.

**No. 1207.—AN ACT TO PROVIDE FOR THE COLLECTION OF ROAD TAXES AND THE MAINTENANCE OF ROADS IN KITSAP COUNTY.<sup>1</sup>**

§ 1. **Appointment of Collector.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of Kitsap county shall, at their regular meeting in May in each year, appoint a collector of road taxes in each road district in said county, who shall hold his office for one year or until his successor is appointed and qualified; such collector so appointed shall receive such compensation as the county commissioners may determine.

\* \* \* \* \*

§ 2. **Warrant for Collection.**—SEC. 3. The county auditor of said county shall, immediately after the appointment by the county commissioners of collector of road tax for the several road districts, cause to be delivered to each of said collectors a notice of appointment as such, which notice shall be under the seal of the board of county commissioners, and which, with his oath of office attached, shall be deemed sufficient authority to demand and collect road taxes in his respective district.

<sup>1</sup> Approved Nov. 10, 1879. (See Seventh Bien. Sess. 1879, p. 207.) See also No. 669½, § 4, *supra*.

§ 3. **Poll Tax.**—SEC. 4. Every adult male inhabitant of the county of Kitsap under fifty years of age, not too infirm to perform labor, shall pay a road poll tax of two dollars a year, which tax shall be due and payable at any time after the first Monday in May, and payment may be enforced by any collector of road taxes duly appointed under the provisions of this act in the same manner as supervisors may do under the provisions of the general road law of this Territory.

§ 4. **Amount of Tax.**—SEC. 5. It shall be the duty of the board of county commissioners, at the time of levying the taxes for county purposes in each year, to levy and assess a property road tax of fifteen cents on every one hundred dollars' worth of taxable property in said county.

§ 5. **Assessment List.**—SEC. 6. Within fifteen days after the assessment roll has been completed and approved by the board of county commissioners, the auditor shall furnish the collector of road taxes of each road district, a road book containing a list of persons to whom property road tax has been assessed in his respective district, the class of property, whether real or personal, the valuation of each class, and the total amount of such tax assessed to each.

§ 6. **When Taxes Delinquent.**—SEC. 7. All property road tax, assessed in said county, shall be due on or before the first day of August in each year, and payable to the collector of road taxes of the road district where the property was assessed, and all such road taxes, remaining unpaid after the first day of August, shall be returned as delinquent by the collector of road taxes, of each respective district, to the officer authorized by law to collect delinquent county taxes, and such officer is hereby authorized to add ten per centum to the amount of such delinquent road tax, and all delinquent road taxes, remaining unpaid at the time when Territorial and county taxes become delinquent, shall be subject to the same costs, and shall be collected in the same manner as such Territorial and county taxes.

§ 7. **Manner of Payment.**—SEC. 13. Within the meaning of this act all road taxes, whether poll or property tax, shall be paid in money, and all road work shall be done by contract.

§ 8. **General Law in Force.**—SEC. 14. All the provisions of the general road law of the Territory, not in conflict with this act shall be held to apply and be in force in the county of Kitsap.

§ 9. **Repealing Clause.**—SEC. 15. An act entitled "An act in relation to road tax in Kitsap county, approved Nov. 29, 1871,"<sup>2</sup> is hereby repealed: *Provided*, Such repeal shall not exonerate any one from the payment of taxes under said repealed act which have been heretofore levied and assessed, but such taxes may be collected as in this act provided, notwithstanding such repeal.

<sup>2</sup> See No. 1187, *supra*.

**No. 1208.—AN ACT ENTITLED "AN ACT FOR THE ASSESSMENT AND COLLECTION OF TAXES IN KITSAP COUNTY FOR THE YEAR 1879."**

§ 1. **Correction of Errors.**—SECTION 1. *Be it enacted, etc.*, That when the assessor of Kitsap county shall ascertain that there is any property in his county which has from any cause not been properly assessed or which has been omitted from the assessment roll, and the taxes are uncollected upon the same for the year 1878, he shall make an entry thereof and of the name of the owner or owners, and shall proceed to make such assessment by reference to the assessed value thereof for the year 1878, and proceed to collect the same in the manner and at the time provided by law for the collection of taxes for the year 1880.

§ 2. **Date in Effect.**—SEC. 2. This act shall take effect and be in force from and after January 1st, 1880.

<sup>1</sup> Approved Nov. 11, 1879. (See Seventh Bien. Sess. 1879, p. 248.)

**No. 1209.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF CLALLAM COUNTY TO LEVY A SPECIAL TAX FOR CERTAIN PURPOSES.<sup>1</sup>**

§ 1. **Amount—Purpose.**—SECTION 1. *Be it enacted, etc.,* That the county commissioners of Clallam county be and they are hereby authorized, at their regular May session for the year 1880, to levy a tax of three mills on the dollar upon all the taxable property of Clallam county, for the purpose of erecting a bridge across Dungeness river at the point known as the "Clay Banks."

§ 2. **Collection.**—SEC 2. This tax shall be collected in money at the same time and in the same manner as the county and Territorial taxes are collected for the year 1880, and shall be kept in a separate fund known as the bridge fund, to be used for the construction and maintaining of said bridge across said river.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1879. (See Seventh Bien. Sess. 1879, p. 241.) In effect from date.

**No. 1210.—AN ACT TO LEGALIZE THE ACTION OF THE COUNTY COMMISSIONERS OF THURSTON COUNTY IN LEVYING A SPECIAL TAX FOR THE YEAR 1879.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the action of the board of county commissioners of Thurston county, in levying a special tax of two mills on the dollar for the year 1879, be and the same is hereby declared valid and legal.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1879. (See Seventh Bien. Sess. 1879, p. 242.) In effect from date.

**No. 1211.—AN ACT LEGALIZING THE ACTION OF CERTAIN BOARDS OF COUNTY COMMISSIONERS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the adjustment of the claims for delinquent taxes levied upon the property of the Northern Pacific railroad company in the counties of Pierce, Thurston, Lewis and Cowlitz, made by the commissioners of said counties respectively, at their regular terms begun and held on the first Monday of November, 1879, be and the same is hereby legalized, ratified and declared valid.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 228.) In effect from date.

**No. 1212.—AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF THURSTON COUNTY TO LEVY AN ADDITIONAL TAX FOR COUNTY PURPOSES.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the county commissioners of Thurston county be and they are hereby authorized to levy, in their discretion, a tax of two mills on every dollar's worth of taxable property in said county in addition to the taxes now authorized to be levied by the general revenue law for county purposes. Such additional taxes shall be levied and collected in the same manner and at the same time as other taxes are authorized to be levied and collected by the general revenue law and shall be expended by said county commissioners for all necessary county purposes.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien Sess. 1879, p. 216.) In effect from date.

**No. 1213.—AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF CLARKE COUNTY, WASHINGTON TERRITORY, TO BORROW MONEY TO BUILD A COURT HOUSE AND JAIL.<sup>1</sup>**

§ 1. **Amount May Borrow, etc.**—SECTION 1. *Be it enacted, etc.*, That the county commissioners of Clarke county be and they are hereby authorized and empowered, in the name of said county, to borrow any sum of money not exceeding twenty-five thousand dollars, upon which they may pay a rate of interest not greater than ten per cent. per annum to be appropriated and used by said county commissioners for the purpose of building a court house and jail at the county seat of said county

§ 2. **May Issue Bonds.**—SEC. 2. That said county commissioners, for the purpose of carrying the provisions of this act into effect, shall have power and they are hereby authorized, in the name of said county, to issue twenty-five thousand dollars in bonds, in denominations not less than five hundred dollars each, to bear interest as provided in this act payable in fifteen years from the date thereof; \* \* \*

§ 3. **Special Tax.**—SEC. 3. That said county commissioners are hereby authorized and empowered to levy and collect annually, at the same time and in the same manner as they levy and collect taxes for general Territorial and county purposes, a special tax on the taxable property of the said county of Clarke, sufficient to pay the interest on the whole amount of bonds by this act authorized to be issued, and after five years from the date of said bonds they shall annually, in like manner, levy and collect a special tax sufficient to pay all accrued interest on said bonds, and ten per cent. of the principal thereof, until the whole amount of said bonds shall have been paid and discharged.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 26, 1881. (See Eighth Bien. Special Sess. 1881, p. 181.) In effect from date.

**No. 1214.—AN ACT IN RELATION TO SHERIFFS OF CERTAIN COUNTIES PERFORMING THE DUTY OF ASSESSOR.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the sheriffs of Kitsap, Jefferson, Clallam, Whatcom, Island, San Juan, Snohomish, Mason and Chehalis counties shall be *ex-officio* assessors of said counties, and shall fulfill all the duties required by law to be fulfilled by the assessor of said counties, and they shall be governed by all the laws relating to the same.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Bien. Special Sess. 1881, p. 40.) In effect from date.

**No. 1215.—AN ACT TO AMEND "AN ACT IN RELATION TO SHERIFFS OF CERTAIN COUNTIES," APPROVED NOV. 27, 1871.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That section two of an act entitled "An act in relation to sheriffs of Pacific, Yakima, Kitsap, Skamania, Whatcom, Snohomish, Clallam and Stevens counties," approved November 27th, 1871,<sup>2</sup> be amended by striking out the words "Yakima" and "Whatcom."

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Bien. Special Sess. 1881, p. 41.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 1184, *supra*.

**No. 1216.—CHAPTER CCXIII—COUNTY ASSESSORS.<sup>1</sup>**

§ 1. SEC. 2752. At the general election in this Territory there shall be elected in each county a county assessor: \* \* \* *Provided*, That in the counties of Clallam, Island, San Juan, Yakima, Klickitat, Jefferson, Chehalis, Pacific, Kitsap, Mason, Snohomish and Whatcom, the sheriffs in such counties shall be *ex-officio* assessors, and as such shall perform the duties of such office.

\* \* \* \* \*

<sup>1</sup> (See Code 1881, p. 477.) For repealing clause, date in effect, etc., see Nos. 338, 339, 340, *supra*.

**No. 1217.—AN ACT TO AUTHORIZE THE BOARD OF SCHOOL DIRECTORS OF SCHOOL DISTRICT NUMBER SIX, OF CLARKE COUNTY, WASHINGTON TERRITORY, TO BORROW MONEY TO PAY THE OUTSTANDING INDEBTEDNESS OF SAID SCHOOL INCURRED IN BUILDING A DISTRICT SCHOOL HOUSE.<sup>1</sup>**

§ 1. **Duties of Directors.**—SECTION 1. *Be it enacted, etc.*, That the board of school directors of school district number six (6)<sup>5</sup> of Clarke<sup>2</sup> county, Washington Territory, be and they are hereby authorized<sup>6</sup> and empowered, in the name of said school district, to borrow any sum of money not exceeding twenty-two thousand dollars,<sup>3</sup> upon which they may pay any rate of interest not more<sup>7</sup> than ten (10) per cent. per annum, to be used and apportioned by said board of school directors for the purpose of paying the outstanding indebtedness against said school district incurred in the erection of the<sup>8</sup> public school house in the said school district.

§ 2. **Amount of Bonds, etc.**—SEC. 2. That the said board of school directors, for the purpose of carrying the provisions of this act into effect, shall have power and they are hereby authorized in the name of said school district to issue twenty-two thousand dollars<sup>9</sup> in bonds, in denominations of not less than one hundred dollars. to bear interest as in this act provided, payable in ten years from the date thereof: \* \* \*

§ 3. **Amount, etc., of Tax.**—SEC. 3. That the said board of school directors be and they are hereby authorized,<sup>6</sup> empowered and directed to levy and assess a direct special school tax annually hereafter on all the taxable property in said school district as assessed and returned<sup>9</sup> by the assessor of the county of Clarke<sup>2</sup> for county and Territorial purposes, sufficient to pay the annual interest on said bonds and ten (10) per cent. of the principal thereof,<sup>4</sup> until said bonds shall have been fully paid; and to certify said special tax so levied and assessed to the county auditor of the said county of Clarke,<sup>2</sup> which tax shall be a lien upon and<sup>10</sup> be collected out of and from the taxable property of said school district, within the same time and in the same manner as other special<sup>11</sup> taxes are collected under existing laws of this Territory.

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<sup>1</sup> Approved Nov. 13, 1883. (See Ninth Bien. Sess. 1883, p. 391.) In effect from date.

<sup>2</sup> <sup>4</sup> See No. 1221, *infra*.

<sup>3</sup> See No. 1220 and 1221, *infra*.

<sup>5</sup> <sup>6</sup> <sup>7</sup> <sup>8</sup> <sup>9</sup> <sup>10</sup> <sup>11</sup> See No. 1220, *infra*.

**No. 1218.—AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF CLARKE COUNTY, WASHINGTON TERRITORY, TO BORROW MONEY TO COMPLETE THE COURT HOUSE AND JAIL IN SAID COUNTY OF CLARKE.<sup>1</sup>**

§ 1. **Duties of Commissioners.**—SECTION 1. *Be it enacted, etc.*, That the board of county commissioners of Clarke county be and the same are

<sup>1</sup> Approved Nov. 13, 1883. (See Ninth Bien. Sess. 1883, p. 407.) In effect from date.



hereby authorized and empowered in the name of said county, to borrow in addition to the amount mentioned in the special act of the legislative assembly of the Territory of Washington, approved Nov. 26, 1881, entitled "an act authorizing the county commissioners of Clarke county, Washington Territory, to borrow money to build a court house and jail,"<sup>2</sup> any sum of money not exceeding fifteen thousand dollars, upon which interest, not greater than eight per cent. per annum, may be paid to be used by said board of county commissioners, for the purpose of completing the court house, now in course of construction, and to place a sufficient number of cells for the confinement of county and other prisoners in the jail in said court house, and to properly furnish and warm the said court house and jail.

**§ 2. County Commissioners Authorized to Issue Bonds.—SEC. 2.** The said board of county commissioners shall, for the purpose of carrying the provisions of this act into effect, have power, and they are hereby authorized and empowered in the name of said county, to issue fifteen thousand dollars in bonds, in denominations of not less than five hundred dollars each, to bear interest as in this act provided, payable in fifteen years from the date thereof: *Provided*, Said bonds may be redeemed by said county of Clarke at any time after five years from this date.

**§ 3. Amount, etc., of Tax.—SEC. 3.** The said board of county commissioners are hereby authorized to levy and collect, annually, at the same time, and in the same manner as they levy and collect taxes for general Territorial and county purposes, a special tax on all the taxable property of the said county of Clarke, sufficient to pay the interest on said bonds by this act authorized to be issued, and after five years from the date of such bonds, they shall annually, in like manner, levy and collect a special tax sufficient to pay all accrued interest on said bonds, and ten per cent. of the principal thereof, until the whole amount of said bonds and the interest thereon shall have been paid and discharged.

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<sup>2</sup> See No. 1213, *supra*.

**No. 1219.—AN ACT TO AUTHORIZE THE BOARD OF COMMISSIONERS OF KING COUNTY TO BUILD A COURT HOUSE AND JAIL IN SAID COUNTY, AND TO PROVIDE FUNDS THEREFOR.<sup>1</sup>**

**§ 1. Duties of Commissioners.—SECTION 1.** *Be it enacted, etc.*, That the board of commissioners of King county be, and they are hereby authorized and empowered to purchase the necessary grounds in the city of Seattle, and to build and construct thereon a suitable building for a court house and jail for said county.

\* \* \* \* \*

**§ 2. Sale of Certain Property—Levy, etc., of Tax.—SEC. 3.** For the purpose of providing funds for the purchase of the necessary grounds and the construction of said building and for the furnishing of the same, the said board of commissioners are authorized to bargain, sell and convey the grounds and buildings thereon now occupied by the county, to wit: Lots 1, 4 and 5, in block 38 of C. D. Boren's addition to Seattle; and are further authorized and empowered to levy an annual tax of not exceeding two mills on the dollar, upon all the taxable property in King county, for the years 1884, 1885, 1886, 1887, 1888 and 1889; such taxes shall be levied at the same time that Territorial and county taxes are levied, and shall be collected in the same manner as other county taxes are collected; and the proceeds of the sale of said lots aforesaid, and of said

<sup>1</sup> Approved Nov. 26, 1883. (See Ninth Bien. Sess. 1883, p. 390.) In effect from date.

taxes, shall constitute a fund to be known as the "court house fund," and all such taxes levied therefor shall be called the "court house tax."

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§ 3. **Special Tax.**—SEC. 8. In case the levies provided in section three of this act shall not be sufficient to pay the principal and interest of said "court house warrants," at the expiration of the time said warrants are due and payable, the board be and are authorized to levy a tax sufficient to pay the same upon the taxable property of the county, such tax to be levied and collected as other county taxes.

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**No. 1220.**—AN ACT TO ENABLE THE BOARD OF SCHOOL DIRECTORS OF SCHOOL DISTRICT NUMBER FIFTY-THREE OF CLARKE COUNTY, WASHINGTON TERRITORY, TO BORROW MONEY TO PAY THE OUTSTANDING INDEBTEDNESS OF SAID SCHOOL DISTRICT AND TO COMPLETE THE PUBLIC SCHOOL HOUSE THEREIN.<sup>1</sup>

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<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Bien. Sess. 1883, p. 401.) In effect from date. This No. is *verbatim* as No. 1217, *supra*, except § 1 at 5 instead of "six (6)" read "fifty-three (53)," and at §§ 1 and 3 at 8 omit "authorized," and §§ 1 and 2 at 3 instead of "twenty-two thousand dollars" read "six hundred dollars," and § 1 at 7 instead of "not more" read "not exceeding," and at 8 instead of "public school house in the said school district" read "school house therein and to complete and finish the same," and § 8 at 9 after "returned" read "annually," and at 10 after "and" read "shall," and at 11 after "special" read "school."

**No. 1221.**—AN ACT TO AUTHORIZE THE BOARD OF SCHOOL DIRECTORS OF SCHOOL DISTRICT NUMBER SIX, OF LINCOLN COUNTY, WASHINGTON TERRITORY, TO BORROW MONEY TO PAY THE OUTSTANDING INDEBTEDNESS OF SAID DISTRICT INCURRED IN BUILDING A DISTRICT SCHOOL HOUSE.<sup>1</sup>

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<sup>1</sup> Approved Dec. 23, 1885. (See Tenth Bien. Sess. 1885-86, p. 478.) In effect from date. This No. is *verbatim* as No. 1217, *supra*, except §§ 1 and 3 of said No. at 2 instead of "Clarke" read "Lincoln," and §§ 1 and 2 at 3 instead of "Twenty-two thousand dollars" read "five thousand (5,000) dollars," and § 3 at 4, after "thereof" read "said bonds to be numbered consecutively and to be paid in their numerical order."

**No. 1222.**—AN ACT TO AUTHORIZE THE BOARD OF SCHOOL DIRECTORS OF SCHOOL DISTRICT NUMBER TWENTY, OF SPOKANE COUNTY, WASHINGTON TERRITORY, TO BORROW MONEY WITH WHICH TO PURCHASE OR BUILD A SCHOOL HOUSE IN SAID SCHOOL DISTRICT.<sup>1</sup>

§ 1. **Duties of Directors.**—*Be it enacted, etc.* SECTION 1. That the board of school directors of school district number twenty (20), of Spokane county, Washington Territory, be and they are hereby authorized to submit to the duly qualified electors of said district the question of borrowing money, not to exceed six thousand dollars, and issuing the school district warrants of this district therefor. Said money to be used by said board of school directors for the purchase or construction of a public school house with the necessary appurtenances in said district, and such vote shall be taken at an election held in the same manner as other elections, under the school election laws of this Territory which are hereby declared to govern in the election herein provided for, and the form of ballots to be used at such elections shall be such as said board of directors may provide.

§ 2. **Board of Directors Empowered to Borrow Money.**—SEC. 2. Should the vote at such election result in a majority of all the votes cast

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 480.) In effect from date.

being for the issuance of school district warrants as aforesaid, then the board of directors of said district shall borrow any sum of money not exceeding six thousand dollars, upon which they may pay any rate of interest not exceeding ten per cent. per annum, to be used by said board of school directors for the purchase or construction of a public school house with its necessary appurtenances in said school district.

§ 3. **Issuance of Bonds.**—SEC. 3. That the said board of school directors for the purpose of carrying the provisions of this act into effect shall have power, and they are hereby authorized in the name of said school district, to issue school district warrants to the amount of six thousand dollars, in denominations of not less than one hundred dollars (\$100), to bear interest as in this act provided, payable in ten years from the date thereof: *Provided*, That said school district warrants may be redeemed or refunded by said board of school directors at any time after five years from their date.

§ 4. **Amount of Tax, etc.**—SEC. 4. That the said board of school directors be and they are hereby authorized, empowered and directed to levy and assess a direct special tax annually hereafter, on all the taxable property in said school district, as assessed and returned by the county assessor of Spokane, for Territorial and county purposes, sufficient at least to pay the annual interest in said school district warrants, and after five years the annual levy may be increased to the limit of providing for payment of said annual interest and twenty per cent. of the principal until said school district warrants are fully paid and to certify said special tax so levied and assessed to the auditor of the said county of Spokane, which tax shall be a lien upon and be collected from the taxable property of said school district, within the same time and in the same manner as other special taxes are collected under existing laws of this Territory.

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**No. 1223.—AN ACT AUTHORIZING A VOTE OF THE ELECTORS OF SCHOOL DISTRICT NUMBER 21, IN WALLA WALLA COUNTY, WASHINGTON TERRITORY, TO AUTHORIZE THE BOARD OF DIRECTORS OF SAID DISTRICT TO BORROW MONEY AND ISSUE BONDS THEREFOR TO PAY THE OUTSTANDING INDEBTEDNESS OF SAID DISTRICT INCURRED IN BUILDING A SCHOOL HOUSE.<sup>1</sup>**

§ 1. **Duties of Directors.**—*Be it enacted, etc.* SECTION 1. That the board of school directors of school district number twenty-one be and hereby are authorized to submit to the duly qualified electors of said district the question of borrowing money not to exceed the sum of five thousand dollars, and issuing the bonds of the district therefor, to pay the indebtedness of the district incurred in building a school house, and such vote shall be taken at an election held in the same manner as other elections under the school election laws of this Territory, which are hereby declared to govern in the election herein provided for, and the form of ballot to be used at such election shall be such as said board of directors may prescribe.

§ 2. **School Directors Authorized to Borrow Money.**—SEC. 2. Should the vote of such election result in a majority of all the votes cast being for the issuance of bonds as aforesaid, then the board of directors of said district shall borrow any sum of money not exceeding five thousand dollars, upon which they may pay any rate of interest not exceeding ten per cent. per annum, to be apportioned by said board of school directors for the purpose of paying the outstanding indebtedness of said school district incurred as aforesaid.

<sup>1</sup> Approved Jan. 6, 1886. (See Tenth Bien. Sess. 1885-86, p. 482.) In effect from date.

§ 3. **School Directors Empowered to Issue Bonds.**—SEC. 3. And said board of school directors, for the purpose of borrowing said money and carrying into effect the purposes of this act and of such vote, shall in the name of said school district issue bonds in the sum of five thousand dollars (\$5,000) or less, in denominations of not less than one hundred dollars, payable in ten years thereafter, bearing any rate of interest not exceeding ten per cent. per annum: *Provided*, That said bonds may be redeemed or refunded by the board of school directors of said district at any time after the expiration of five years from their date, and said bonds are to be sold by said district at not less than their par value.

§ 4. **Amount, etc., of Tax.**—SEC. 4. Said board of school directors are further hereby authorized and directed to levy a direct special school tax annually hereafter on all of the taxable property in said school district, as assessed and returned by the assessor of the county of Walla Walla for county and Territorial purposes, sufficient to pay the annual interest and ten per cent. of the principal on said bonds, and all of said bonds to be numbered consecutively and paid in their numerical order, and to certify the special tax so assessed to the county auditor of said Walla Walla county, which tax shall be a lien upon and be collected out of the taxable property of said district, within the same time and in the same manner as other special taxes are collected under existing laws of this Territory.

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**No. 1224.**—AN ACT TO AUTHORIZE THE BOARD OF SCHOOL DIRECTORS OF SCHOOL DISTRICT NO. FOUR OF THE COUNTY OF CHEHALIS, IN THE TERRITORY OF WASHINGTON, TO BORROW MONEY TO ENABLE SAID SCHOOL DISTRICT TO ERECT AND FURNISH A PUBLIC SCHOOL HOUSE IN SAID SCHOOL DISTRICT, AND TO ISSUE THE BONDS OR WARRANTS OF SAID SCHOOL DISTRICT FOR THE PURPOSE OF BORROWING SUCH MONEY.<sup>1</sup>

§ 1. **Duties of Directors.**—*Be it enacted, etc.* SECTION 1. That the board of school directors of school district number four of Chehalis county, Washington Territory, be and they are hereby authorized and empowered in the name of said school district to borrow any sum of money not exceeding four thousand dollars, upon which they may pay any rate of interest not exceeding ten per cent. per annum, to be used and applied by said board of school directors, for the purpose of erecting and furnishing a public school house in said school district.

§ 2. **School Directors Authorized to Issue Bonds.**—SEC. 2. That the said board of school directors, for the purpose of carrying the provisions of this act into effect, shall have power and they are hereby authorized in the name of said school district to issue the bonds of said school district, or the school district warrants of said school district, in any sum not exceeding four thousand dollars, and in denominations of not less than fifty dollars, to bear interest as in the first section of this act provided, payable in ten years from the date thereof, and the interest thereon payable annually: *Provided*, That said bonds or warrants may be redeemed and paid by said school district, through its board of school directors, at any time after the expiration of five years from their date.

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§ 3. **Special School Tax Levy.**—SEC. 4. That said board of school directors be and they are hereby authorized, empowered and directed to levy and assess a direct special school tax annually hereafter on all tax-

<sup>1</sup> Approved Jan. 19, 1886. (See Tenth Bien. Sess. 1885-86, p. 476.) In effect from date.

able property in said school district, as assessed and returned by the assessor of the county of Chehalis, for county and Territorial purposes sufficient to pay the annual interest on said bonds or warrants, and ten per cent. of the principal thereof, until said bonds or warrants shall have been fully paid, and to certify said special tax so levied and assessed to the auditor of said county of Chehalis, which tax shall be a lien upon and collected out of and from the taxable property in said school district, or from the persons owning the same, within the same time and in the same manner as the general taxes for county and Territorial purposes are collected under existing laws of this Territory.

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**No. 1225.—AN ACT TO AMEND SECTION 2752 OF THE CODE OF WASHINGTON TERRITORY, RELATING TO COUNTY ASSESSORS.<sup>1</sup>**

§ 1. *Be it enacted, etc.* SECTION 1. That section 2752, of the Code of Washington Territory relating to county assessors be and the same is hereby amended so as to read:<sup>2</sup> \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Jan. 20, 1886. (See Tenth Bien. Sess. 1885-86, p. 164.) In effect from date.

<sup>2</sup> See No. 1216, *supra*. The only amendment is the insertion of the following counties: Klickitat, Chehalis, Snohomish and Whatcom.

**No. 1226.—AN ACT TO AUTHORIZE THE BOARD OF SCHOOL DIRECTORS OF SCHOOL DISTRICT NO. NINE (9), WHITMAN COUNTY, TO BORROW TWO THOUSAND DOLLARS.<sup>1</sup>**

§ 1. **Duties of Directors.**—*Be it enacted, etc.* SECTION 1. That the board of school directors of district No. nine (9), in Whitman county, Washington Territory, be and they are hereby authorized and empowered in the name of said school district to borrow any sum of money not exceeding two thousand dollars, upon which they may pay any rate of interest not more than ten (10) per cent. per annum, to be used and apportioned by said board of school directors for the purpose of paying the outstanding indebtedness against said school district incurred in the erection of the public school house in the said district: *Provided*, A majority of the qualified electors of said district, at any election to be appointed by the board of directors of said district shall vote in favor of borrowing said money and for the issuance of the bonds hereinafter prescribed.

§ 2. **School Directors Authorized to Issue Bonds.**—SEC. 2. That the said board of school directors, for the purpose of carrying the provisions of this act into effect, shall have power and they are hereby authorized in the name of said school district to issue bonds of said district in any sum not exceeding two thousand dollars, and in denominations of not less than fifty dollars, to bear interest as in the first section of this act provided, payable in five years from the date thereof, and the interest thereon shall be payable annually: *Provided*, That said bonds may be redeemed and paid by said board of directors at any time after the expiration of three years from their date.

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§ 3. **Special School Tax Levy.**—SEC. 4. That said board of school directors be and are hereby authorized, empowered and directed to levy and assess a direct special school tax annually hereafter, on all the taxable property in said school district as assessed and returned by the assessor of the county of Whitman for county and Territorial purposes.

<sup>1</sup> Approved Jan. 29, 1886. (See Tenth Bien. Sess. 1885-86, p. 485.) In effect from date.



sufficient to pay the annual interest on said bonds and ten (10) per cent. of the principal thereof, until said bonds shall have been fully paid, and to certify said special tax so levied and assessed to the auditor of said county of Whitman, which tax shall be a lien upon and collected out of and from the taxable property in said school district or from the persons owning the same, within the same time and in the same manner as the general taxes for county and Territorial purposes are collected under existing laws of the Territory.

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**No. 1227.—AN ACT TO AUTHORIZE THE BOARD OF SCHOOL DIRECTORS OF DISTRICT NUMBER ONE OF ADAMS COUNTY, WASHINGTON TERRITORY, TO BORROW MONEY TO COMPLETE THE SCHOOL HOUSE OF SAID DISTRICT AND PAY THE OUTSTANDING INDEBTEDNESS INCURRED IN THE BUILDING OF THE SAME.<sup>1</sup>**

**§ 1. Duties of Directors.**—*Be it enacted, etc.* SECTION 1. That the directors of school district number one of Adams county, Washington Territory, be and the same are hereby authorized and empowered, in the name of said district, to borrow the sum of one thousand dollars, said sum to be used in paying the outstanding indebtedness incurred in building the school house in said district and to fully complete the same.

**§ 2. Issuance of Warrants.**—SEC. 2. The said board of directors shall, for the purpose of carrying the provisions of this act into effect, have power and they are hereby authorized and empowered in the name of said district to issue one thousand dollars in school district warrants, in denominations of not less than one hundred dollars each, to bear interest at the rate of ten per cent. per annum, payable in ten years from the date thereof: *Provided*, Said school district warrants may be redeemed by said district at any time after five years from the date thereof.

**§ 3. Amount, etc., of Tax.**—SEC. 3. The board of directors of said district are hereby authorized to levy and collect a special tax each year, on all taxable property of said district a sufficient sum to pay the interest due on said school district warrants, and after five years from the date of such school district warrants they shall annually, in like manner, levy and collect a special tax sufficient to pay all accrued interest on said school district warrants and twenty per cent. of the principal thereof, until the whole amount of said school district warrants and the interest thereon shall have been paid and discharged.

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<sup>1</sup> Approved Jan. 29, 1886. (See Tenth Bien. Sess. 1885-86, p. 475.) In effect from date.

**No. 1228.—AN ACT TO AUTHORIZE THE DIRECTORS OF SCHOOL DISTRICT NUMBER ONE, OF WHATCOM COUNTY, WASHINGTON TERRITORY, TO ISSUE SCHOOL DISTRICT WARRANTS TO PAY THE OUTSTANDING INDEBTEDNESS OF SAID DISTRICT INCURRED IN PURCHASING LAND AND ERECTING A SCHOOL HOUSE THEREON.<sup>1</sup>**

**§ 1. Duties of Directors.**—*Be it enacted, etc.* SECTION 1. That the school directors of school district number one, of Whatcom county, Washington Territory, be and they are hereby authorized and empowered to submit to the qualified electors of said school district at any general or special school election to be held in said district after the passage of this act the proposition to issue the school district warrants of said district in any sum not exceeding two thousand dollars, and at any rate of inter-

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 483.) In effect from date.

est not exceeding ten per cent. per annum, to aid in paying the outstanding indebtedness of said district incurred in purchasing land for a school site, and in erecting a school house thereon.

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**§ 2. School Directors Authorized to Issue Warrants.**—SEC. 4. That the board of school directors for the purpose of carrying the provisions of this act into effect, shall have power, and they are hereby authorized in the name of the school district to issue, not to exceed two thousand dollars in school district warrants, in denominations of twenty, fifty and one hundred dollars, to bear interest as in this act provided, payable in ten years from the date thereof: *Provided*, That said board of school directors shall not issue school district warrants in excess of the amount authorized by the vote at the election at which the proposition was submitted to the electors of said district: *And provided further*, That said school district warrants may be redeemed or refunded by said board of school directors at any time after the expiration of five years from the date thereof.

**§ 3. Special School Tax Levy.**—SEC. 5. That said board of school directors be and they are hereby authorized to levy and assess a direct special school tax annually, after the issuing of said school district warrants, on all taxable property in said school district as assessed and returned by the assessor of the county of Whatcom for county and Territorial purposes, sufficient to pay the annual interest on said school district warrants and ten per cent. of the principal, until said school district warrants have been paid, and to certify said special tax so levied and assessed to the county auditor of said county of Whatcom, which tax shall be a lien upon and be collected out of and from taxable property in said school district within the same time and in the same manner that other special school taxes are collected under existing laws of this Territory.

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**No. 1229.—AN ACT TO AUTHORIZE ROAD DISTRICTS IN SKAGIT, WHATCOM AND ISLAND COUNTIES TO LEVY SPECIAL TAXES FOR ROAD AND BRIDGE PURPOSES.<sup>1</sup>**

**§ 1. Amount.**—*Be it enacted, etc.* SECTION 1. That in the counties of Skagit, Whatcom and Island, in the Territory of Washington, a special tax, not to exceed ten mills on the dollar, may be levied on the taxable property therein as hereinafter set forth.

**§ 2. Special Election, etc.**—SEC. 2. Whenever ten or more property taxpayers, residents of any particular road district in said Skagit, Whatcom and Island counties, shall petition the board of county commissioners of said counties, setting forth that the amount of road taxes derived from the general revenue law are inadequate for the proper improvement and maintenance of the public roads and bridges, or for the construction of necessary bridges in said road district, and the board of county commissioners, upon the consideration of the same, will not or cannot afford the necessary relief by appropriation from the county funds or otherwise, it shall be lawful for the board of county commissioners of said Skagit, Whatcom and Island counties to submit the question of levying a special tax to the electors of said road district, said tax not to exceed the sum of ten mills on the dollar of the taxable property in said district as per the assessment roll of said counties, and if a two-thirds majority of all the votes cast at such election shall favor such special tax, the board of county commissioners shall order the same to be levied on all the taxable property in said road district as shown by the county assessment roll of that

<sup>1</sup> Approved Feb. 3, 1886. (See Tenth Bien. Sess. 1885-86, p. 500.) In effect from date.

year, and said assessment and collection thereof shall be made and collected the same as is provided for under the general law for the assessment and collection of special school taxes: *Provided*, That no person shall be eligible at an election under this act unless he or she pays a property tax and are otherwise entitled to vote under the general election law of this Territory: *And provided further*, That for the purposes of this act, that where there is community property assessed in any road district, it shall be considered that both the husband and wife are taxpayers of such district, if otherwise qualified.

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§ 3. **Scope of this Act.**—SEC. 6. \* \* \* \* \* *Provided*, That all the road districts in Whatcom and Island counties shall be included in the operations of this bill, except the road district embracing the city of Whatcom.

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**No. 1230.—AN ACT TO AUTHORIZE THE BOARD OF COMMISSIONERS OF COLUMBIA COUNTY TO BUILD A COURT HOUSE AND JAIL IN SAID COUNTY AND TO PROVIDE FUNDS THEREFOR.<sup>1</sup>**

§ 1. **Power of Commissioners.**—*Be it enacted, etc.* SECTION 1. That the board of commissioners of Columbia county be and they are hereby authorized and empowered to purchase the necessary grounds in the city of Dayton and to build and construct thereon a suitable building for a court house and jail for said county.

\* \* \* \* \*

§ 2. **Amount, etc., of Tax.**—SEC. 3. For the purpose of providing funds for the purchase of the necessary grounds and the construction of said building and for the furnishing of the same the said board of commissioners are authorized to bargain, sell and convey any grounds and buildings therein now occupied by the county, and are further authorized and empowered to levy an annual tax not exceeding two mills on the dollar upon all the taxable property in Columbia county, for the years 1886, 1887, 1888, 1889, 1890; such taxes shall be levied at the same time that Territorial and county taxes are levied, and shall be collected in the same manner as other county taxes are collected; and the proceeds of the sale of said lots aforesaid, and of said taxes shall constitute a fund to be known as the "court house fund," and all such taxes levied therefor shall be called the "court house tax."

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§ 3. SEC. 8. In case the levies provided in section three of this act shall not be sufficient to pay the principal and interest of said "court house warrants" at the expiration of the time said warrants are due and payable, the board be and are hereby authorized to levy a tax sufficient to pay the same upon the taxable property of the county, such tax to be levied and collected as other county taxes.

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<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 503.) In effect from date.

**No. 1231.—AN ACT TO PROVIDE A JAIL FOR GARFIELD COUNTY AND THE CITY OF POMEROY.<sup>1</sup>**

§ 1. **Duties of Commissioners.**—*Be it enacted, etc.* SECTION 1. That the county commissioners of Garfield county and the members of the common council of the city of Pomeroy, in said county, be and the same are hereby appointed to be a joint board for the purpose of and power to

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 487.) In effect from date.

procure convenient and suitable grounds in said city of Pomeroy, and if in the opinion of said board it is advisable they may build or cause to be built thereon a jail for the joint use of said Garfield county and city of Pomeroy.

§ 2. **Taxation for.**—SEC. 2. That the cost of procuring such grounds and building such jail shall not exceed the sum of four thousand dollars, of which sum thirty-six hundred dollars shall be paid by the county of Garfield and raised upon the taxable property therein as hereinafter provided, and four hundred dollars shall be paid by the city of Pomeroy by levying an additional tax upon all the taxable property in said city as hereinafter provided, and in case a less sum is expended that the same shall be paid proportionately by said county and city.

\* \* \* \* \*

§ 3. **Amount of County Taxes.**—SEC. 7. That the commissioners of said Garfield county at the time of making the first levy of taxes after the passage of this act, shall levy a sufficient sum upon all taxable property in said county to raise an amount equal to three-fifths of the whole amount expended and contracted in behalf of said county, and shall at its next succeeding annual levy of taxes, levy a like amount in the same manner.

§ 4. **Amount of City Taxes.**—SEC. 8. That the common council of said city of Pomeroy shall at the first general levy of taxes made by said council in and for said city, levy an additional amount upon all the taxable property in said city, as shall be equal to three-fifths of the additional sum expended and contracted in behalf of said city, and shall at its next succeeding annual levy of taxes, levy a like amount in the same manner.

§ 5. **Manner of Levy, etc.**—SEC. 9. That such taxes shall in each and every instance be levied and collected as other taxes are levied and collected, with like penalties respectively, except that the amount collected as the city tax shall be turned over and paid by the city treasurer to the county treasurer, within a reasonable time after collecting the same and the whole of such moneys raised by said county and city shall be a special fund, known as the jail fund, and that after all expenses are paid in procuring said grounds and building said jail, the surplus, if any there be, shall be transferred and paid by the county treasurer into the general county fund of said county, and to the treasurer of said city, as a part of its general fund, in the proportion to which each contributed.

§ 6. **Incidental Powers.**—SEC. 10. That said board is hereby granted all powers necessary to carry the provisions of this act into effect, although such powers may not be in this act specifically enumerated.

\* \* \* \* \*

**No. 1232.—AN ACT TO AMEND SECTION 2992, CHAPTER 229 OF THE CODE OF WASHINGTON IN RELATION TO ROADS, BRIDGES AND HIGHWAYS.<sup>1</sup>**

§ 1. **Levy and Amount of Road Tax.**—*Be it enacted, etc.* SECTION 1. That section 2992<sup>2</sup> of the Code of Washington be amended to read as follows: Section 2992. Whenever the supervisor shall from any cause have neglected or omitted to place on his list the name of any person or property within the time required by the law, he may at any time afterwards place the name of any such person or property on the list and assess the road tax due, which assessment shall in all respects be valid, as if made in due form. It shall be the duty of the county commissioners of the several counties to levy and assess a road tax of two dollars on every male person

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess. 1885-86, p. 499.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See No. 672, § 64, *supra*.

liable to perform labor on the public roads, between the ages of twenty-one and fifty years, except persons that are a public charge or too infirm to perform labor, idiotic and insane persons and an active fireman who has been a member of any fire company in this Territory for a period of one year preceding the assessment of taxes; also assess not less than one nor more than five mills on every dollar's worth of property as returned by the county assessment; which tax shall be paid in money or in labor at two dollars per day: *Provided*, That the county commissioners may in addition levy a special tax of two mills on every dollar's worth of property as returned by the assessor; which tax shall be paid in money at the time and in the manner provided for the payment of county and Territorial taxes; \* \* \*

§ 2. **Scope of This Act.**—SEC. 2. The provision of this act shall apply to Mason county only.

\* \* \* \* \*

**No. 1233.—AN ACT TO AUTHORIZE THE BOARD OF COUNTY COMMISSIONERS OF LEWIS COUNTY, WASHINGTON TERRITORY, TO ISSUE BONDS TO FUND ITS OUTSTANDING INDEBTEDNESS.<sup>1</sup>**

§ 1. **Duties of County Commissioners.**—*Be it enacted, etc.* SECTION 1. That the board of county commissioners of Lewis county be and they are hereby authorized and empowered, in the name of said county, to borrow money in the manner and upon the conditions hereinafter set forth, not exceeding the sum of forty thousand dollars (\$40,000), for the purpose of paying off and funding its existing and outstanding indebtedness.

§ 2. **Power to Issue Bonds.**—SEC. 2. The said board of county commissioners shall, for the purpose of carrying the provisions of this act into effect, have power and are hereby authorized and empowered in the name of said county to issue bonds, not exceeding the amount of forty thousand dollars (\$40,000), \* \* \*

§ 3. **Special Tax Levy.**—SEC. 3. The said board of county commissioners are hereby authorized and directed to levy and collect annually, at the same time and in the same manner as they levy and collect taxes for general Territorial and county purposes, a special tax upon all the taxable property of said county to pay the interest on said bonds by this act authorized to be issued, and after ten (10) years from the date of said bonds, they shall annually levy and collect a special tax on all the taxable property of said county, sufficient to pay all approved and accruing interest and the principal upon said bonds as they respectfully<sup>2</sup> mature, and so on in each and every year thereafter until the whole amount or principal of said bonds and the interest thereon shall have been paid and discharged according to the face and tenor thereof.

\* \* \* \* \*

§ 4. **Date in Effect.**—SEC. 5. This act shall take effect from and after its passage and approval by the governor and its satisfaction<sup>3</sup> by the congress of the United States.

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess 1885-86, p. 515.)

<sup>2</sup> Respectively.

<sup>3</sup> Ratification.

**No. 1234.—AN ACT TO AUTHORIZE SCHOOL DISTRICT NUMBER FIFTY-EIGHT (58), OF CLARKE COUNTY, TO ERECT A PUBLIC SCHOOL HOUSE AND BORROW MONEY TO PAY THEREFOR.<sup>1</sup>**

§ 1. **School Directors Authorized to Submit Estimates—Notice.**—*Be it enacted, etc.* SECTION 1. That the directors of school district num-

<sup>1</sup> Approved Feb. 4, 1886. (See Tenth Bien. Sess, 1885-86, p. 477.) All conflicting acts and parts of acts repealed. In effect from date.



ber fifty-eight (58), of Clarke county, Washington Territory, are hereby authorized to submit to the qualified school electors of said district an estimate of the cost of building a school house for said district, not to exceed three thousand dollars (\$3,000). That notice of said election shall be given by publication thereof, three times in one of the newspapers published weekly in Vancouver. The last publication thereof, to be at least one week before said election.

§ 2. **School Directors Authorized to Issue Warrants.**—SEC. 2. That if a majority of the votes cast at said election shall be in favor of the erecting of said public school building, then the directors of said school district are hereby authorized and empowered to borrow the sum of money mentioned in the said estimate and not exceeding the sum of three thousand dollars (\$3,000), and to issue the warrants of said district therefor drawn on the county treasurer, and payable out of the funds of said school district as provided for in this act, which said warrants shall bear interest from date thereof at any rate not to exceed ten per cent. until paid, and that said tax shall be levied in all respects as other school taxes levied and collected in the same manner as other school taxes, under school law of the Territory. *Provided*, That the county treasurer of the county of Clarke shall be entitled to one (1) per cent. for receiving and one (1) per cent. for disbursing the special taxes in this act mentioned, and no greater compensation shall be allowed for such service.

§ 3. **Special School Tax Levy.**—SEC. 3. That directors of said school district shall levy an annual tax to pay said warrants and interest thereon, equal to one-tenth the amount of principal and interest of said warrants.

\* \* \* \* \*

**No. 1235.—AN ACT TO REPEAL AN ACT ENTITLED AN ACT TO PROVIDE FOR THE COLLECTION OF ROAD TAXES AND THE MAINTENANCE OF ROADS IN KITSAP COUNTY.<sup>1</sup>**

§ 1. *Be it enacted, etc.* SECTION 1. That an act entitled an act to provide for the collection of road taxes and the maintenance of roads in Kitsap county, approved November tenth, eighteen hundred and seventy-nine,<sup>2</sup> be and the same is hereby repealed.

§ 2. **Date in Effect.**—SEC. 2. This act to take effect from and after March first, eighteen hundred and eighty-eight.

<sup>1</sup> Approved Jan. 31, 1883. (See Eleventh Blen. Sess. 1887-88, p. 241.)

<sup>2</sup> See No. 1207, *supra*.

## TITLE X.—SCHOOL LANDS.

**No. 1236.—AN ACT TO ENABLE THE SUPERINTENDENT OF COMMON SCHOOLS OF CHEHALIS COUNTY TO SELL AND CONVEY CERTAIN SCHOOL LANDS TO JOHN BRADY.<sup>1</sup>**

1. SECTION 1. *Be it enacted, etc.*, That the superintendent of common schools of Chehalis county is hereby enabled and authorized to sell and convey to John Brady, of said county, the northwest quarter of section thirty-six, township ———, range west, upon the payment by the said John Brady to the said superintendent the full sum of two hundred dollars, for the use of the school fund of Chehalis county.

<sup>1</sup> Passed Jan. 16, 1883. (See Tenth Reg. Sess. 1882-83, p. 27, Local Laws.)

**No. 1237.—AN ACT DIRECTING THE COMMISSIONERS OF CLALM COUNTY TO CONVEY CERTAIN SCHOOL LANDS TO DANIEL SMALLEY, W. G. CROSBY AND W. H. FREEMAN.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the board of county commissioners of Clalm county be and they are hereby authorized and directed to execute a conveyance to Daniel Smalley, W. G. Crosby and W. H. Freeman, conveying and confirming to said parties respectively so much of their respective claims as lie upon and are included in section thirty-six, township thirty-one north, range four west, not to exceed one hundred and sixty acres to each, upon said parties paying to the superintendent of schools, for the use and benefit of the school fund of said county, the price or sum of one dollar and fifty cents per acre for so much of their said claims as are embraced in said school section, together with expenses of surveying said tract to be conveyed.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 8, 1864. (See Eleventh Reg. Sess. 1863-64, p. 91.) In effect from date.

**No. 1238.—AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO ENABLE THE SUPERINTENDENT OF COMMON SCHOOLS OF CHEHALIS COUNTY TO SELL AND CONVEY CERTAIN SCHOOL LANDS TO JOHN BRADY," PASSED JANUARY 16, 1863.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the blank after the word "township," in the fifth line of the act to which this is supplementary<sup>2</sup> be filled by inserting the word "seventeen," and that the word "seven" be inserted after the word "range" on said line so as to read "township seventeen, range seven."

<sup>1</sup> Passed January 19, 1864. (See Eleventh Reg. Sess. 1863-64, p. 89.)

<sup>2</sup> See No. 1236, *supra*.

**No. 1239.—AN ACT TO AUTHORIZE THE SCHOOL DIRECTORS OF SCHOOL DISTRICT NUMBER ONE (1), IN WHITMAN COUNTY, TO SELL AND CONVEY CERTAIN REAL ESTATE BELONGING TO SAID DISTRICT.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That Jacob H. Bellinger, C. H. Warner and W. A. Inman, directors of school district No. 1, in Whitman county, Washington Territory, be and are hereby authorized as such directors, to sell and convey, in fee simple, the following described real estate, to wit: Lots No. one (1), two (2), eleven (11) and twelve (12), in block No. nineteen (19), in what is known as the city of Colfax, as shown by the plat on file in the auditor's office in Whitman county, Washington Territory.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 1, 1881. (See Eighth Bien. Special Sess. 1881, p. 189.) In effect from date.

**No. 1240.—AN ACT ENTITLED AN ACT TO AUTHORIZE A MAJORITY OF THE SCHOOL DIRECTORS OF SCHOOL DISTRICT NUMBER ONE (1), IN WHITMAN COUNTY, TO MORTGAGE CERTAIN REAL ESTATE BELONGING TO SAID DISTRICT.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That a majority of the directors of school district number one (1), in Whitman county, Washington Terri-

<sup>1</sup> Approved Nov. 26, 1883. (See Ninth Bien. Sess. 1883, p. 396.) In effect from date.

tory be, and are hereby, authorized as such directors of said school district, to duly make, execute and deliver to James A. Perkins, of said Whitman county, Washington Territory, a good and sufficient mortgage on lots three (3), four (4), five (5), and six (6), in block thirty-three, in the city of Colfax, Whitman county, Washington Territory, according to the recorded plat of said city of Colfax in the auditor's office of said Whitman county, Washington Territory, to secure to said James A. Perkins the payment of a certain promissory note signed by the said school directors of said school district number one (1), and dated January, 1881, for the sum of fifteen hundred dollars, with interest thereon at the rate of one and a half per cent. per month from date until paid, said note providing for a reasonable attorney's fee in case said suit or actions should be instituted to collect said note or any portion thereof, and payable to the said James A. Perkins, or order, one year after date, for value received.

\* \* \* \* \*

**No. 1241.—AN ACT TO AUTHORIZE THE COUNTY COMMISSIONERS OF WHITMAN COUNTY TO SELL CERTAIN REAL ESTATE UPON WHICH THE PRESENT COURT HOUSE IS LOCATED, AND PURCHASE OTHER REAL ESTATE UPON WHICH TO LOCATE A COURT HOUSE AND OTHER COUNTY BUILDINGS.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.,* That the commissioners of Whitman county, Washington Territory, be and are hereby authorized to sell and convey the real estate upon which the court house of said county is located, and purchase other real estate upon which to locate a court house and other county buildings.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 29, 1881. (See Eighth Bien. Special Sess. 1881, p. 190.) In effect from date.

## TITLE XI.—SEAT OF GOVERNMENT.

**No. 1242.—AN ACT TO PROVIDE FOR THE SELECTION OF THE PLACE FOR THE LOCATION OF THE SEAT OF GOVERNMENT OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

§ 1. Location.—SECTION 1. *Be it enacted, etc.,* That the seat of government of this Territory be and hereby is established and located on a certain piece or parcel of land on the land claim of Edmund Sylvester, in the county of Thurston, in section twenty-three, township eighteen north, range two west, containing ten acres, and more particularly described as follows: Commencing at a point south twenty-four degrees, twenty-three minutes west, nineteen and two one-hundredths chains from the northwest corner of Main and Union streets, in the town of Olympia; thence south seven and fifty one-hundredths chains, thence west eight and fifty-eight hundredths chains; thence north, forty-seven degrees west, one and seventy-three hundredths chains; thence north forty-eight degrees, thirty minutes west, one and sixty-hundredths chains; thence north, sixty-five degrees west, one and ninety-three hundredths chains; thence north, thirty-three

<sup>1</sup> Passed Jan. 9, 1885. (See Second Reg. Sess. 1884-85, p. 5.)

degrees thirty minutes west, two and eighty-hundredths chains; thence north, thirty-eight degrees west, one and seventeen-hundredths chains; thence north, forty-five degrees west, one and eighty-seven hundredths chains; thence east sixteen and four hundredths chains, to place of beginning.

§ 2. **Date in Effect, etc.**—SEC. 2. This act to take effect and be in force fifteen days after its passage: *Provided*, That within that time the present owners or claimants give a deed of release for the above described ten acres of land to the Territory of Washington without expense to said Territory, which shall be deemed satisfactory by a joint committee to be appointed by both branches of the legislative assembly to examine and receive the same.

**No. 1243.—AN ACT SUPPLEMENTARY TO, AND EXPLANATORY OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE SELECTION OF THE PLACE FOR THE LOCATION OF THE SEAT OF GOVERNMENT OF THE TERRITORY OF WASHINGTON."**<sup>1</sup>

§ 1. **Date in Effect.**—SECTION 1. *Be it enacted, etc.*, That so much of said act to which this is a supplement, as makes its going into effect within fifteen days after its passage, be and the same is hereby repealed; and the said law is hereby now declared to be in full force and effect.

§ 2. **Delivery of Deeds—Possession.**—SEC. 2. *Be it enacted*, That the quit-claim deeds of Edmund Sylvester and wife, and of Lumon H. Calkins quit-claiming and assigning to the Territory of Washington all their right, title and interest of, in, and to, the said parcel of land mentioned in said bill to which this is supplemental, and the bond of Calvin H. Hale and others to the Territory, be deposited in the office of the Secretary of the Territory of Washington, and that the governor be instructed to take possession of the said ten acres of land, and hold possession thereof, for the use, benefit and behoof of the Territory of Washington, in accordance with the first section of the act to which this is a supplement: *And provided*, That no improvements shall be commenced on that portion of said parcel of land claimed by Lumon H. Calkins until the condition of the bond of Calvin H. Hale and others has been fully complied with.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 29, 1855. (See Second Reg. Sess. 1854-55, p. 6.) In effect from date.

## TITLE XII.—MISCELLANEOUS.

**No. 1244.—AN ACT TO AUTHORIZE MARTHA MARTIN, A MINOR, TO CONVEY PROPERTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That Martha Martin, a minor, is hereby authorized to sell and convey any and all property she may possess, without the appointment of a guardian.

<sup>1</sup> Passed Jan. 12, 1860. (See Seventh Reg. Sess. 1859-60, p. 429.)

**No. 1245.—AN ACT TO LEGALIZE THE ACTS OF J. J. H. VAN BOKKELEN AS COUNTY AUDITOR FROM AUGUST 1, 1858, TO AUGUST 15, 1860.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the acts of J. J. H. Van Bokkelen as auditor of the county of Jefferson, from the first day of August, 1858, to the fifteenth day of August, 1860, shall be and remain of the same force and validity as they would have been had he then been lawfully entitled to hold said office.

<sup>1</sup> Passed Dec. 18, 1860. (See Eighth Reg. Sess. 1860-61, p. 11.)

**No. 1246.—AN ACT TO LEGALIZE THE OFFICIAL ACTS OF THOMAS J. CARTER AND J. A. KARR, AUDITORS FOR CHEHALIS COUNTY FOR THE YEARS 1859 AND 1860.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the official acts of Thomas J. Carter and J. A. Karr, auditors for Chehalis county for the years 1859 and 1860, are hereby declared legal.

\* \* \* \* \*  
<sup>1</sup> Passed Dec. 18, 1860. (See Eighth Reg. Sess. 1860-61, p. 9.) In effect from date.

**No. 1247.—AN ACT TO LEGALIZE THE ACTS OF J. J. H. VAN BOKKELEN AS NOTARY PUBLIC, BETWEEN MAY 14, 1859, AND APRIL 30, 1860.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the acts of J. J. H. Van Bokkelen as notary public of the Third judicial district of this Territory, made between May 14, 1859, and April 30, 1860, shall be and remain of the same force and validity as they would have been had he then held a commission as notary public according to law.

<sup>1</sup> Passed Dec. 18, 1860. (See Eighth Reg. Sess. 1860-61, p. 10.)

**No. 1248. AN ACT LEGALIZING THE OFFICIAL ACTS OF THE PROBATE JUDGE OF PIERCE COUNTY, AND OF HENRY E. BRADLEY, A PERSON APPOINTED CLERK OF THE PROBATE COURT OF PIERCE COUNTY, BY THE PROBATE JUDGE, AND ACTING AS SUCH CLERK.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the appointment of Henry E. Bradley as probate judge of Pierce county as clerk of said probate court is hereby declared legal, and all acts done by the said Bradley as clerk of said court, shall be and the same are hereby

p. 81, Local Laws.) All conflict



**No. 1249.—AN ACT TO AUTHORIZE MICHAEL S. DREW AND HIS ASSOCIATES TO PLANT AND CULTIVATE OYSTERS IN PORT GAMBLE BAY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That Michael S. Drew, and such other person or persons as he may associate with him, be and they are hereby authorized to plant and cultivate oysters on a part of the flat at the mouth of Walker's creek, also on a part of the flat at the mouth of the brook at the head of Port Gamble Bay, Kitsap county, in all not exceeding ten acres, for the term of ten years from and after the passage of this act.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 20, 1865. (See Twelfth Reg. Sess. 1864-65, p. 150.) In effect from date.

**No. 1250.—AN ACT AUTHORIZING HENRY WINSOR AND L. D. DURGIN, OF THURSTON COUNTY, WASHINGTON TERRITORY, THEIR HEIRS AND ASSIGNS, TO PLANT, CULTIVATE AND GATHER OYSTERS IN BUDD'S INLET.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That Henry Winsor and L. D. Durgin, their heirs and assigns, be and they are hereby granted the exclusive privilege to plant, cultivate and gather oysters in so much of Budd's Inlet as lies within the limits of the east half of section fifteen, in township eighteen, north of range two west of the Willamette meridian, in the Territory of Washington: *Provided*, That this act shall not be so construed as to vest any right in the parties named to any of the native oyster beds in Budd's Inlet.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 20, 1865. (See Twelfth Reg. Sess. 1864-65, p. 151.) All acts and parts of acts "not in conformity," repealed. In effect from date.

**No. 1251.—AN ACT CONFERRING ADDITIONAL POWERS UPON THE CITY RECORDER OF THE CITY OF VANCOUVER.<sup>1</sup>**

§ 1. **To be Justice of Peace.**—SECTION 1. *Be it enacted, etc.*, That the city recorder of the city of Vancouver shall be *ex-officio* a justice of the peace in and for Clarke county, vested with the same jurisdiction as other justices of the peace in this Territory, and all laws of a general or special nature now or hereafter in force applicable to justices of the peace or their writs, shall also apply to the said city recorder, when acting by virtue of his *ex-officio* authority as justice of the peace.

§ 2. **Powers.**—SEC. 2. The said city recorder shall also have full power and authority to join parties in marriage, take acknowledgments of deeds or other instruments of writing, administer oaths and affidavits and perform all other acts and exercise all other powers conferred upon justices of the peace by any laws now or hereafter in force, and nothing in this act shall be so construed as to take away any other authority or powers heretofore granted to said city recorder.

§ 3. **Title.**—SEC. 3. The title of said officer when exercising the powers and jurisdiction vested in him by the provisions of this act, shall be "city recorder, Vancouver, *ex-officio* justice of the peace of Clarke county, W. T.," and the title of his court shall be the "justices court of (inserting name of officer), city recorder of Vancouver, *ex-officio* justice of Clarke county, W. T."

\* \* \* \* \*

<sup>1</sup> Jan. 9, 1866. (See Thirteenth Reg. Sess. 1865-66, p. 151.) All conflicting acts are repealed. In effect from date.

**No. 1252.—AN ACT TO LEGALIZE THE OFFICIAL ACTS OF JOSEPH HILL, COUNTY AUDITOR OF CHEHALIS COUNTY, AND HIS DEPUTY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That all the official acts performed in the county of Chehalis, by Joseph Hill, as county auditor of said county, elected at the general election in 1866, as also of James A. Karr, appointed by him as deputy county auditor, until the latter was elected at the general election in 1867 and duly qualified according to law, be and the same are hereby ordered valid and as of the same effect in law as though the said Joseph Hill, county auditor as aforesaid, had filed in the office of the clerk of the district court of the Second judicial district of Washington Territory the certificate of his election, his official bond and oath of office.

\* \* \* \* \*

<sup>1</sup> Approved Jan. 21, 1868. (See First Bien. Sess. 1867-68, p. 143.) In effect from date.

**No. 1253.—AN ACT TO VACATE A PART OF THE TERRITORIAL ROAD FROM CARSON'S FERRY, ON PUYALLUP, TO CLARK'S CREEK, IN PIERCE COUNTY, AND TO VACATE THE COUNTY ROAD FROM MOOR'S FORD TO CARSON'S FERRY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That the Territorial road from Carson's ferry, on Puyallup river, to Clark's creek, and the county road from Moor's ford to Carson's ferry, be and the same is hereby vacated and abandoned.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 26, 1869. (See Second Bien. Sess. 1869, p. 478.) In effect from date.

**No. 1254.—AN ACT AUTHORIZING J. G. CLINGER AND OTHERS TO CONSTRUCT A WHARF AT PORT TOWNSEND BAY.<sup>1</sup>**

§ 1. **Location, etc., of Wharf.**—SECTION 1. *Be it enacted, etc.*, That J. G. Clinger and such other persons as he may associate with him, be and are hereby authorized to construct a wharf at Port Townsend Bay, in the county of Jefferson, W. T., commencing at a sufficient distance above high water mark opposite claim number forty-two, situate in sections fifteen, sixteen and seventeen, in township number thirty, north of range one west; beginning at 2.85 chains from the meandered line on Port Townsend Bay; thence west 80.72 chains to the northwest corner of said claim; thence south 40.40 chains; thence east 78.25 chains to the meandered line of said bay; thence north 25 degrees, west 7.50 chains; thence north 4 degrees east 9 chains; thence north 19 degrees east 14 chains; thence north 24½ degrees east 3.50 chains; thence north 32 degrees east 9.82 chains; thence west 2.35 chains to the place of beginning, containing 318.94 acres. Width of said wharf to be fifty feet, and to extend in a southeastern direction into the bay to a point where there shall not be less than twenty feet of water at low tide.

§ 2. **Additions to Wharf.**—SEC. 2. That said J. G. Clinger and his associates may, in addition to the privileges granted in section one of this act, construct at the southeast end of said wharf an addition or additions to said wharf on either or both sides thereof, to form an L or T, neither of which additions shall exceed seventy-five feet square, and upon which said J. G. Clinger and his associates may erect buildings, warehouses or other necessary improvements.

§ 3. **Regulation and Construction of Wharf.**—SEC. 3. \* \* \* Said wharf shall be subject to the laws of Washington Territory regulat-

<sup>1</sup> Approved Dec. 2, 1869. (See Second Bien. Sess. 1869, p. 465.)

ing wharves, and shall be and remain the property of the said J. G. Clinger and his associates, their heirs and assigns: *Provided*, That the said J. G. Clinger and his associates shall within three years after the passage of this act commence to build said wharf, and shall within six months from commencing same have the same completed.

§ 4. **Repealing Clause.**—SEC. 4. All acts or parts of acts heretofore passed, conflicting with this grant, or the provisions herein contained, be and the same are hereby repealed.

**No. 1255.**—AN ACT RELEASING TO HANNAH E. SHORT, DEVISEE OF ESTHER SHORT, DECEASED, THE CLAIM OF THE TERRITORY OF WASHINGTON TO A CERTAIN TRACT OF LAND IN CLARKE COUNTY, CONVEYED TO WASHINGTON TERRITORY AS A SITE FOR A PENITENTIARY.<sup>1</sup>

§ 1. **Preamble.**—WHEREAS, Esther Short, the mother of Hannah E. Short, did on the tenth day of July, 1855, make and execute a bond unto the Territory of Washington, conditioned that if the Territory should build a penitentiary on certain ten acres of land in Clarke county, she would make, execute and deliver a good and sufficient deed for the same; and

WHEREAS, The said Esther Short did make, execute and deliver on the 23d day of February, 1858, a deed to the certain ten acres of land in said deed described, which said deed is recorded in book "B" of deeds of Clark county, page 265, and recorded therein on the 7th day of May, 1858; and

WHEREAS, The condition of said bond was never complied with on the part of the Territory, and said Territory did wholly fail to build a penitentiary on said lands, which was the sole consideration of said bond and deed; and

WHEREAS, The said Esther Short died, leaving a will devising all her property to Hannah E. Short: therefore,

§ 2. **Certain Deeds Cancelled.**—SECTION 1. *Be it enacted, etc.*, That the bond executed by Esther Short on the tenth day of July, 1855, and the deed made and executed by said Esther Short on the 23d day of February, 1858, and recorded in Clarke county record of deeds in book "B," page 265, be and they are hereby declared null and void.

§ 3. **Evidence of Cancellation.**—SEC. 2. A copy of this act, certified to be such by the secretary of the Territory, recorded by the said Hannah E. Short in the office of the county auditor of Clarke county, shall operate as a release of all title of the Territory of Washington in and to the lands described in said deed.

§ 4. **Declaration of Title.**—SEC. 3. The title to the lands in said deed described is hereby declared to be in Hannah E. Short, in accordance with the provisions of the last will and testament of Esther Short, her mother.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 2, 1869. (See Second Blen. Sess. 1869, p. 500.) In effect from date.

**No. 1256.**—AN ACT TO CURE THE DEFECTS IN CERTAIN CONVEYANCES AND TO DECLARE THEM GOOD AND LAWFUL DEEDS TO THE LANDS DESCRIBED THEREIN.<sup>1</sup>

§ 1. **Executor's Deeds Validated.**—SECTION 1. *Be it enacted, etc.*, That all the conveyances to lands belonging to the estate of Esther Short, de-

<sup>1</sup> Approved Nov. 29, 1871. (See Third Blen. Sess. 1871, p. 190.) All conflicting acts and parts of acts repealed. In effect from date.

ceased, late of Clarke county, W. T., and lying in said county, made by A. J. Lawrence, as the executor of the estate of said decedent, for a valuable consideration to him paid by the purchaser, under an order of the probate court of said county, are hereby made and declared valid and lawful deeds to the lands therein described, and sufficient to convey to the purchaser or purchasers therein named, and his or their heirs and assigns, all the title of said decedent then had or has since been acquired to said land.

**§ 2. Guardian's Deeds Validated.**—SEC. 2. That all conveyances to lands lying in Clarke county, W. T., belonging in any manner whatever to Hannah E. Short of said county of Clarke, made by A. J. Lawrence, guardian of Hannah E. Short, under any order of the probate court of said county, for a valuable consideration paid to him by the purchaser, are hereby made and declared valid and lawful deeds of conveyance to the lands therein described, and sufficient to convey to the purchaser or purchasers therein named, and to his or their heirs and assigns, all the title the said Hannah E. Short had then or has since acquired to said lands.

**§ 3. Force and Effect of Deeds.**—SEC. 3. That said conveyances named in sections one and two of this act shall, when offered, be received and have the same force and effect as evidence in all the courts of this Territory, in actions at law and suits in chancery, that deeds duly signed, witnessed, acknowledged, delivered and recorded have.

\* \* \* \* \*

**No. 1257.—AN ACT CONSTITUTING A. L. PORTER, OF PIERCE COUNTY, THE GUARDIAN OF MARY L. WELLER, A MINOR, AND DECLARING HER HIS HEIR-AT-LAW.<sup>1</sup>**

**§ 1. SECTION 1.** *Be it enacted, etc.,* That A. L. Porter, of Pierce county, be and he hereby is declared and made the guardian of Mary L. Weller, now a minor under his protection; and he shall be entitled to her care and custody during her minority.

**§ 2. SEC. 2.** The said Mary L. Weller is hereby declared and made the heir-at-law of the said A. L. Porter.

\* \* \* \* \*

<sup>1</sup> Approved Oct. 23, 1873. (See Fourth Bien. Sess. 1873, p. 574.) In effect from date.

**No. 1258.—AN ACT TO CONFIRM THE TITLE OF THE SEATTLE AND WALLA WALLA RAILROAD AND TRANSPORTATION COMPANY TO THE TIDE LANDS IN AND ABOUT ELLIOTT BAY.<sup>1</sup>**

**§ 1. Title Confirmed.**—SECTION 1. *Be it enacted, etc.,* That the title of the Seattle and Walla Walla Railroad and Transportation Company to the tide lands south of King street, in, under, around and about Elliott Bay in King county, Washington Territory, from extreme high to extreme low tide, and to deep water, including all tide lands in, about, under, or bordering upon said Elliott Bay, except what is north of King street, derived by deed from the city of Seattle to the said company dated August 19, 1873, be and the same is hereby ratified, and confirmed, and said deed shall be deemed to vest the title of said lands in said Seattle and Walla Walla Railroad and Transportation Company in fee simple, and in every way to operate as an estoppel in law and in equity.

**§ 2. Release of Title: Conditions.**—SEC. 2. That the Territory of Washington hereby relinquishes all the right, title and interest of the said

<sup>1</sup> Approved Nov. 8, 1873. (See Fourth Bien. Sess. 1873, p. 577.)

Territory in and to, and hereby grants unto the said Seattle and Walla Walla Railroad and Transportation Company, all the tide lands in, under, around and about Elliott Bay, in King county in said Territory, from extreme high to extreme low tide, and to deep water. The meaning and intention of this act being to grant unto the said railroad and transportation company, and vest in them, the legal and equitable title to all the tide and other lands in, under, around and about said Elliott Bay as would otherwise belong to and vest in the state, upon the admission of Washington Territory into the Federal Union as a state: *Provided*, That the foregoing grant and confirmation is upon the express condition that the first section of fifteen miles of said road shall be constructed within three years from the passage of this act: *Provided*, That the release and grant by this act intended to be made, shall be of no validity until the said Seattle and Walla Walla Railroad and Transportation Company shall have commenced a railroad connecting the city of Seattle in King county, with the city of Walla Walla in Walla Walla county via the Snoqualmie pass: *And provided further*, That the foregoing confirmation and grant shall not include any lots or land embraced within David S. Maynard's plat of the city of Seattle as originally filed, which lots are now held by innocent purchasers from said David S. Maynard or his assigns.

**No. 1259.—AN ACT FOR RELIEF OF JOHN M. IZETT.<sup>1</sup>**

§ 1. **Preamble.**—SECTION 1. WHEREAS, John M. Izett settled upon and improved lots numbered three, four, five and six, and the southwest quarter of the northeast quarter and the southeast quarter of the northwest quarter, all in section thirty-six, in township No. thirty-three north, of range No. one east of the Willamette meridian, in Washington Territory, in the month of November, 1857, and prior to the survey, and has resided upon and cultivated said tract continuously until the present time;

SEC. 2. AND WHEREAS, By the carelessness of his attorney his declaratory statement was not filed within the time prescribed by the law after survey;

SEC. 3. AND WHEREAS, The county commissioners of Island county, in which said land is located, have surrendered all claim to said tract of land as school land inuring to said county, and have selected other land in lieu thereof:

§ 2. **Confirmation of Title to Certain Lands.**—SEC. 4. Therefore, *Be it enacted, etc.*, That all the right, title and interest, present and prospective, of the said Territory of Washington, of, in and to the said lots, three, four, five and six, and the southwest quarter of the northeast quarter, and the southeast quarter of the northwest quarter, all in section thirty-six, in township No. thirty-three north, of range No. one east of the Willamette meridian, be and the same is hereby granted, conveyed and confirmed unto the said John M. Izett, his heirs and assigns forever.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 10, —. (See Fourth Blen. Sess. 1873, p. 551.) In effect from date.

**No. 1260.—AN ACT IN RELATION TO ALFRED A. PLUMMER, JUNIOR, OF PORT TOWNSEND, JEFFERSON COUNTY, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*, That from and after the passage of this act, Alfred A. Plummer, junior, of Port Townsend, Jefferson county, Washington Territory, shall be deemed and taken to be of full age for all purposes precisely the same as if he had reached the full age of twenty-

<sup>1</sup> Approved Nov. 12, 1873. (See Fourth Blen. Sess. 1873, p. 555.) In effect from date.



one (21) years: *Provided*, That nothing in this act shall be so construed as to give the said Alfred A. Plummer, junior, the right to vote or hold office.

\* \* \* \* \*

**No. 1261.—AN ACT REGULATING IRRIGATION AND WATER RIGHTS IN THE COUNTY OF YAKIMA, WASHINGTON TERRITORY.<sup>1</sup>**

**§ 1. Who May Use.**—SECTION 1. *Be it enacted, etc.*, That any person or persons, corporation or company who may have or hold a title or possessory right or title to any agricultural lands within the limits of Yakima county, Washington Territory, shall be entitled to the use and enjoyment of the waters of the streams or creeks in said county for the purposes of irrigation and making said land available for agricultural purposes to the full extent of the soil thereof.

**§ 2. Right-of-Way.**—SEC. 2. That when any person or persons, corporation or company, owning or holding land as provided in section one of this act shall have no available water facilities upon the same, or when it may be necessary to raise the water of said streams or creeks to a sufficient height to so irrigate said land, or whenever such lands are too far removed from said stream or creek to so use the waters thereof as aforesaid, such person or persons, corporation or company shall have the right-of-way through and over any tract or piece of land for the purposes of conducting and conveying said water by means of ditches, dykes, flumes or canals for the purpose aforesaid.

**§ 3. Restrictions.**—SEC. 3. That such right to so dig and construct ditches, dykes, flumes and canals over and across the lands of another shall only extend to so much digging, cutting or excavations as may be necessary for the purposes required.

**§ 4. Determination of Controversies.**—SEC. 4. That in all controversies respecting the right to water under the provisions of this act, the same shall be determined by the date of the appropriation as respectively made by the parties.

**§ 5. Disposition of Waters.**—SEC. 5. That the waters of the streams or creeks of the county may be made available to the full extent of the capacity thereof for irrigating purposes, so that the same do not materially affect or impair the rights of the prior appropriator, but in no case shall the same be diverted or turned from the natural channel, ditches or canals of such appropriator, so as to render the same unavailable.

\* \* \* \* \*

**§ 6. Vested Rights.**—SEC. 7. That this act shall not be so construed as to impair or in any way or manner interfere with the rights of parties to the use of the waters of such streams or creeks acquired before its passage.

**§ 7. Rights of Appropriation for Other Purposes.**—SEC. 8. That this shall not be so construed as to prevent or exclude the appropriators of the waters of said streams or creeks for mining, manufacturing or other beneficial purposes, and the right also to appropriate the same is hereby equally recognized and declared.

\* \* \* \* \*

**§ 8. Determination of Controversies.**—SEC. 11. That in all controversies respecting the right to water in the county of Yakima, whether for mining, manufacturing, agriculture or other useful purposes, the rights of the parties shall be determined by the dates of appropriation respectively.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 13, 1873. (See Fourth Bien. Sess. 1873, p. 520.) In effect from date.

**No. 1262.—AN ACT TO PROVIDE FOR THE SETTLEMENT OF THE ESTATE OF SUMNER B. HINDS, DECEASED.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, On or about the nineteenth day of July, A. D. 1870, Sumner B. Hinds sold and conveyed in fee simple a large amount of real estate, and a stock of assorted merchandise, all being in the city of Seattle, in the county of King, Territory of Washington, to Corliss P. Stone and Charles H. Burnett, partners, doing business in said city under the firm name and style of Stone and Burnett; and then and there took from said Stone and Burnett ten promissory notes for the sum of four thousand dollars each, drawing interest at the rate of ten per cent. per annum; one of said notes falling due each year for ten successive years from date, to secure the purchase money on said sale, and at the same time took from said Stone and Burnett a mortgage on real estate lying in said city to secure the payment of said notes; and shortly after receiving said notes and mortgage the said Hinds moved with his family from said city of Seattle to the city of San Francisco, in the State of California, and took with him said notes and mortgage, and he there established his residence and contracted debts; that on or about the fourteenth day of December, A. D. 1870, the said Sumner B. Hinds died in said city of San Francisco, possessed of said notes and mortgages, and owing debts to citizens of California; that on or about the twenty-eighth of December, A. D. 1870, letters of administration were duly issued on his estate by the probate court of the city and county of San Francisco, State of California, to Maurice C. Blake, a resident of said state and city; that on or about the twenty-seventh day of March, A. D. 1873, letters of administration were also issued upon his estate to John S. Hill, by the probate court of King county, Washington Territory; that there was not in the State of California a sufficient amount of assets belonging to said estate, exclusive of said promissory notes, to pay the debts due, and to become due, from said estate; that on or about the eighteenth day of March, A. D. 1874, the legislature of the State of California passed a special act authorizing, upon certain conditions, the assets belonging to said estate and the debts due said estate to be transferred to the probate court of King county, Washington Territory; that on or about the twenty-third day of July, A. D. 1875, the conditions of said act having been in all things fully complied with, the assets belonging to said estate, being the mortgage aforesaid, and seven of the promissory notes aforesaid, three of said notes having been paid to the administrator in California, were transferred from, and by the authority of the probate court of the city and county of San Francisco, State of California, to the probate court of King county, Washington Territory; and the debts owing by said estate were also transferred at the same time and in the same manner; that at the time of his death Sumner B. Hinds left a widow named Ellen, and since married to John H. Marshall, and three minor children whose names and ages are as follows: Lizzie M. Hinds, now about fourteen years old, Nellie B., now about eleven years old, and Dell M. Hinds, now about nine years old, and all of said children are now living in King county, Washington Territory; that said Stone and Burnett neglected and refused to make any more payments, and are in default according to the terms and conditions of said mortgage; and now, according to an agreement in said mortgage contained, the whole amount secured by said mortgage has become due and owing to said estate, amounting to about forty-two thousand dollars; that to sell said notes and mortgages would result in great loss and injury to the estate, and in order to collect the amount due on said notes, it will be necessary to foreclose said mortgage; and,

WHEREAS, It is probable that John S. Hill, administrator as aforesaid,

<sup>1</sup> Approved Oct. 22. 1875. (See Fifth Bien. Sess. 1875, p. 191.) In effect from date.

may have failed to conform to and comply strictly with the laws applicable to him as such administrator: now, therefore,

§ 2. **Administrator Appointed—Powers and Duties.**—*Be it enacted, etc.,* That the said John S. Hill is hereby declared to be the duly qualified and legal administrator of the estate of the said Sumner B. Hinds, deceased, and not subject to removal for any acts heretofore committed or omitted by him as such administrator; that the administrator of the estate of the said Sumner B. Hinds, is hereby authorized to collect the amount due on the aforesaid notes and mortgage, and is authorized to make a compromise with the said Stone and Burnett, and take less than the whole amount due in full satisfaction of said notes and mortgage, but not less than the value of the mortgaged property, and is hereby fully authorized to accept a conveyance of the mortgaged property from the said Stone and Burnett and their wives to Mrs. Ellen Marshall, the late widow of said Sumner B. Hinds, and Lizzie M. Hinds, Nellie B. Hinds and Dell M. Hinds, minor heirs of said deceased; or said administrator may proceed and foreclose said mortgage, by due course of law, and may on a sale being made of said property bid in and purchase the same in the name and for the said late widow, Ellen M. Hinds, now Marshall, and Lizzie M. Hinds, Nellie B. Hinds and Dell M. Hinds, the minor children and heirs-at-law of the said Sumner B. Hinds, deceased; and if said property shall be so purchased the title to said property shall vest in fee simple in said Ellen M., late widow, and said Lizzie M. Hinds, Nellie B. Hinds and Dell M. Hinds; the said late widow taking the one-half interest, and the said three children in equal parts the remainder. And in case the said late widow and children of the said Sumner B. Hinds shall become the owners of said real estate, either by conveyance from the said Stone and Burnett, or through a foreclosure of said mortgage, the proportionate interest to be vested in the said late widow and the three children aforesaid shall be the same as hereinbefore set forth; but in any event, first subject to the payment of all debts due from said estate and expenses of administration. Said real estate, vesting in the late widow and children aforesaid, may be ordered sold by the probate court of King county, aforesaid, under and by virtue of the laws of Washington Territory, providing for and regulating the sale of real estate of deceased persons for payment of debts.

§ 3. **Appointment, Powers and Duties of Receivers.**—*And be it further enacted,* That in case of a suit being commenced to foreclose the mortgage mentioned in this act, the judge of the district court in which said suit may be instituted, may at chambers, in vacation or in term time, the court may appoint a receiver, as provided for in chapter thirteen of the civil practice act, in the laws of 1873, on page fifty, and may order said receiver to take possession of the mortgaged premises and collect the rents and profits accruing from said property, and require said receiver to keep repairs on said property and pay all taxes and assessments due thereon, and pay for the same out of such rents and profits as he may receive, and may make such reasonable allowauces from time to time, as said judge or court may think just and proper, out of any money in the hands of such receiver, for the support and education of said minor heirs, and interest due on the debts due from said estate, which money may be paid by said receiver to the administrator of said estate for the purposes aforesaid, and in case the said Stone and Burnett or their successors in interest should pay the amount due on said notes to the administrator of said estate, then the said administrator shall pay to the said receiver out of such money so received so much as the said receiver may have paid out as interest, and for the support and education of the children aforesaid, and which money the said receiver shall pay to the said Stone and Burnett, or their successors in interest, and the probate court of King county aforesaid is vested with full jurisdiction over this estate, the same as

though the said Sumner B. Hinds had died in said county. All of the provisions of this act shall apply with equal force and effect to the successors in interest, to Stone and Burnett, or either of them, as it does to the said Stone and Burnett, and the judge at chambers, in vacation, is hereby vested with power and authority to make any and all orders and transact all business authorized by this act, as fully as the court could do in session.

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**No. 1263.—AN ACT TO LEGALIZE THE PROCEEDINGS ON THE PART OF THE COUNTY COMMISSIONERS OF WALLA WALLA COUNTY.<sup>1</sup>**

**§ 1. Certain Release Confirmed.**—SECTION 1. *Be it enacted, etc.*, That the relinquishment of the rights and interests of and in and to the southwest quarter and the southeast quarter of the southwest quarter of section twenty, in township seven north, range thirty-six east of Willamette meridian, of the county of Walla Walla, under the act of congress passed May 26, 1824, "providing for the preemption of lands for county seat purposes," by the county commissioners of said county to the city of Walla Walla, to be entered at the United States land office in trust for the several use and benefit of the occupants of said land, is hereby confirmed and legalized.

**§ 2. Deeds to be Executed.**—SEC. 2. That by and with the consent of the common council of the city of Walla Walla aforesaid by ordinance just passed in accordance with law, the mayor of the said city of Walla Walla is hereby empowered and authorized for and in the name of the said city of Walla Walla in accordance with the law of congress under which a patent was issued to the said city of Walla Walla for the said hereinbefore described land, to make good and sufficient deeds to the several occupants of the lots and parts of lots in the said city of Walla Walla, and embraced within the limits of the southwest quarter and southeast quarter of the southwest quarter of section twenty, township seven north, range thirty-six east of the Willamette meridian, in accordance with the equitable rights of said occupants heretofore determined by the courts and the common council of said city of Walla Walla.

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<sup>1</sup> Approved Nov. 6, 1875. (See Fifth Blen. Sess. 1875, p. 195.) All conflicting acts and part of acts repealed. In effect from date.

**No. 1264.—AN ACT TO PERFECT THE ACKNOWLEDGMENT OF A DEED IN ISLAND COUNTY.<sup>1</sup>**

**§ 1. Preamble.**—WHEREAS, By deed dated the thirty-first day of May in the year one thousand eight hundred and sixty-five, and duly recorded in the auditor's office for Island county, on the sixth day of July of the same year, John R. Williamson and Julia Williamson, his wife, for the consideration of two thousand dollars, sold and conveyed unto Robert Abrams, one hundred and seventy acres of land situated in said county of Island, and more fully described in said deed; and

WHEREAS, The certificate of the acknowledgment of said deed taken before Samuel F. Coombs, notary public, does not state that the said Julia Williamson was examined by said notary public, separate and apart from her husband; and the contents of said deed made known to her: therefore,

**§ 2. Powers of Notary.**—SECTION 1. *Be it enacted, etc.*, That he, the said Samuel F. Coombs, notary public, is hereby authorized and empow-

<sup>1</sup> Approved Nov. 12, 1875. (See Fifth Blen. Sess. 1875, p. 217.) In effect from date.

ered to affix to said deed a new and additional certificate of acknowledgment, stating the actual facts of the case: *Provided*, That he shall make affidavit to be affixed to said deed, that the facts are as stated in said certificate of acknowledgment: *And provided further*, That this act shall not interfere with the vested rights of innocent purchasers.

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PART IV.

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LAWS OF CONGRESS.

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# SUBJECT I.

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**Local Laws of Congress, Specially Applicable to Washington Territory  
—Constitution State of Washington—Proclamations and Orders of  
the President of the United States—Indian Treaties, etc.**

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## DIVISION I.—STATEHOOD.

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### TITLE I.—ENABLING ACT.

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**No. 1265.—AN ACT TO PROVIDE FOR THE DIVISION OF DAKOTA INTO TWO STATES AND TO ENABLE THE PEOPLE OF NORTH DAKOTA, SOUTH DAKOTA, MONTANA, AND WASHINGTON TO FORM CONSTITUTIONS AND STATE GOVERNMENTS AND TO BE ADMITTED INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES, AND TO MAKE DONATIONS OF PUBLIC LANDS TO SUCH STATES.<sup>1</sup>**

**§ 1. What Territories May be Admitted.**—*Be it enacted, etc.,* That the inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana and Washington, as at present described, may become the States of North Dakota, South Dakota, Montana and Washington, respectively, as hereinafter provided.

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**§ 2. Selection of Delegates to Constitutional Convention.**—**SEC. 3.** That all persons who are qualified by the laws of said Territories to vote for representatives to the legislative assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; \* \* \*

**§ 3. Powers of Delegates—What Convention Shall Declare, etc.**  
**SEC. 4.** That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said Territories, \* \* \* on the fourth day of July, eighteen hundred and eighty-nine, and, after organization, shall declare, on behalf of the people of said proposed States, that they adopt the constitution of the United States; whereupon the said conventions shall be, and are hereby, authorized to form constitutions and States governments for said proposed States, respectively. The constitutions shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the Declaration of Independence.

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<sup>1</sup> Approved Feb. 22, 1889. (See 25 U. S. Stat., p. 676.)

And said conventions shall provide, by ordinances irrevocable without the consent of the United States and the people of said States: *First*, That perfect toleration of religious sentiment shall be secured and that no inhabitant of said States shall ever be molested in person or property on account of his or her mode of religious worship. *Second*, That the people inhabiting said proposed States do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said States shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the States on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said States from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians, under any act of congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said States so long and to such extent as such act of congress may prescribe. *Third*, That the debts and liabilities of said Territories shall be assumed and paid by said States, respectively. *Fourth*, That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of said States and free from sectarian control.

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§ 5. **School Lands.**—SEC. 10. That upon the admission of each of said States into the union sections numbered sixteen and thirty-six in every township of said proposed States, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said States for the support of common schools, such indemnity lands to be selected within said States in such manner as the legislature may provide, with the approval of the secretary of the interior: *Provided*, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to, and become a part of, the public domain.

§ 6. **Disposal of School Lands: Prices, etc.**—SEC. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than ten dollars per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislature shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

§ 7. **Grants of Lands for Public Buildings.**—SEC. 12. That upon the admission of each of said States into the Union, in accordance with the provisions of this act, fifty sections of the unappropriated public lands within said States, to be selected and located in legal subdivisions as provided in section ten of this act, shall be, and are hereby, granted to said States for the purpose of erecting public buildings at the capital of said States for legislative, executive and judicial purposes.

§ 8. **School Fund: How Constituted, etc.**—SEC. 13. That five *per centum* of the proceeds of the sales of public lands lying within said States which shall be sold by the United States subsequent to the admission of said States into the union, after deducting all the expenses incident to the same, shall be paid to the said States, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said States, respectively.

§ 9. **Grant of Lands, University: Regulation, Disposal, Price, etc.**—SEC. 14. \* \* \* And such quantity of the lands authorized by the fourth section of the act of July seventeenth, eighteen hundred and fifty-four,<sup>2</sup> to be reserved for university purposes in the Territory of Washington, as, together with the lands confirmed to the vendees of the Territory by the act of March fourteenth, eighteen hundred and sixty-four,<sup>3</sup> will make the full quantity of seventy-two entire sections, are hereby granted in like manner to the State of Washington for the purposes of a university in said State. None of the lands granted in this section shall be sold at less than ten dollars per acre; but said lands may be leased in the same manner as provided in section eleven of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said States, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. \* \* \*

§ 10. **Grant for Penitentiary.**—SEC. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "an act appropriating money for the erection of a penitentiary in the Territory of Dakota," approved March second, eighteen hundred and eighty-one,<sup>4</sup> together with the buildings thereon, be and the same is hereby granted, together with any unexpended balances of the moneys appropriated therefor by said act, to said State of South Dakota, for the purposes therein designated; and the States of North Dakota and Washington shall, respectively, have like grants for the same purpose, and subject to like terms and conditions as provided in said act of March second, eighteen hundred and eighty-one, for the Territory of Dakota. \* \* \*

§ 11. **Grant for Agricultural College.**—SEC. 16. That ninety thousand acres of land, to be selected and located as provided in section ten of this act, are hereby granted to each of said States, except the State of South Dakota, to which one hundred and twenty thousand acres are

<sup>2</sup> See No. 1281, § 4, *infra*.

<sup>3</sup> See No. 1285, *infra*.

<sup>4</sup> (See 21 U. S. Stat., p. 378.) Said act reads as follows: "*Be it enacted, etc., That the sum of thirty thousand dollars be and the same is hereby appropriated for the purpose of erecting, under the direction and supervision of the secretary of the interior, a penitentiary building in said Territory of Dakota, upon such tract or parcel of land at or near the village of Sioux Falls, in Minnehaha county, said Territory, as shall be designated by the secretary of the interior: Provided, That the money hereby appropriated shall be devoted and applied exclusively to the purchase of the necessary grounds and to the erection of a penitentiary in said Territory, and shall not exceed the sum hereby appropriated including the sum expended for the purchase of grounds upon which to erect said penitentiary; and the penitentiary of the Territory of Dakota is hereby located at or near the village of Sioux Falls, Minnehaha county, said Territory, upon such tract or parcel of land as shall be selected and designated by the secretary of the interior as herein provided.*"



granted, for the use and support of agricultural colleges in said States as provided in the acts of congress, making donations of lands for such purposes.

§ 12. **Grants for Scientific Schools and Other Purposes, etc.**—Sec 17. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September fourth, eighteen hundred and forty-one,<sup>6</sup> which act is hereby repealed as to the States provided for by this act, and in lieu of any claim or demand by the said States, or either of them, under the act of September twenty-eighth, eighteen hundred and fifty,<sup>6</sup> and section twenty-four hundred and seventy-nine of the revised statutes,<sup>7</sup> making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to the States provided for in this act, and in lieu of any grant of saline lands to said States, the following grants of land are hereby made to wit: \* \* \* To the State of Washington: For the establishment and maintenance of a scientific school, one hundred thousand acres; for State normal schools, one hundred thousand acres; for public buildings at the State capital, in addition to the grant hereinbefore made for that purpose, one hundred thousand acres; for State charitable, educational, penal and reformatory institutions, two hundred thousand acres. That

<sup>6</sup> (See 5 U. S. Stat., p. 453.) The act referred to is entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," and section eight is as follows: "Sec. 8. *And be it further enacted* That there shall be granted to each State specified in the first section of this act five hundred thousand acres of land for purposes of internal improvement: *Provided*, That to each of the said States which has already received grants for said purposes, there is hereby granted no more than a quantity of land which shall, together with the amount such State has already received as aforesaid, make five hundred thousand acres, the selections in all of the said States to be made within their limits, respectively, in such manner as the legislatures thereof shall direct, and located in parcels conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location, on any public land except such as is or may be reserved from sale by any law of congress or proclamation of the president of the United States, which said locations may be made at any time after the lands of the United States in said States, respectively, shall have been surveyed according to existing laws. And there shall be and hereby is granted to each new State that shall be hereafter admitted into the union, upon such admission, so much land as, including such quantity as may have been granted to such State before its admission, and while under a Territorial government, for purposes of internal improvement as aforesaid, as shall make five hundred thousand acres of land to be selected and located as aforesaid."

<sup>6</sup> (See 9 U. S. Stat., p. 519.) The act referred to is entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," and reads as follows: "*Be it enacted, etc.*, That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be and the same are hereby granted to said State. Sec. 2. *And be it further enacted*, That it shall be the duty of the secretary of the interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid and transmit the same to the governor of the State of Arkansas, and at the request of said governor, cause a patent to be issued to the State therefor; and on that patent the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the legislature thereof: *Provided, however*, That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid. Sec. 3. *And be it further enacted*, That in making out a list and plats of the land aforesaid, all legal subdivisions, the greater part of which is 'wet and unfit for cultivation,' shall be included in said list and plats, but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom. Sec. 4. *And be it further enacted*, That the provisions of this act be extended to and their benefits be conferred upon each of the other States of the union in which such swamp and overflowed lands, known and designated as aforesaid, may be situated."

<sup>7</sup> (See U. S. R. S., 1878, p. 453.) "Sec. 2479. To enable the several States (but not including the States of Kansas, Nebraska and Nevada) to construct the necessary levees and drains, to reclaim the swamp and overflowed lands therein, the whole of the swamp and overflowed lands made unfit thereby for cultivation, and remaining unsold on or after the 28th day of September, A. D. eighteen hundred and fifty, or granted and belong to the several States, respectively, in which said lands are situated: *Provided, however*, That said grant of swamp and overflowed lands, as to the States of California, Minnesota and Oregon, is subject to the limitations, restrictions and conditions hereinafter named and specified as applicable to said three last named states, respectively."

the States provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective States may severally provide.

§ 13. **Mineral Lands Reserved—Selections in Lieu.**—SEC. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections sixteen and thirty-six, or any subdivision or portion of any smallest subdivision thereof in any township shall be found by the department of the interior to be mineral lands, said States are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said States, in lieu thereof, for the use and the benefit of the common schools of said States.

§ 14. **Manner of Selection of Granted Lands.**—SEC. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective States entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said States the number of acres in each heretofore donated by congress to said Territories for similar objects.

\* \* \* \* \*

§ 15. **Circuit and District Courts: Jurisdiction, Powers, Terms, etc.**—SEC. 21. That each of said States, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the States, respectively; and the circuit and district courts therefor shall be held at the capital of such State for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the Eighth judicial circuit, except Washington and Montana, which shall be attached to the Ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney, one United States marshal. \* \* \* There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said State. The regular terms of said courts shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year. \* \* \* The circuit and district courts for each of said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States. \* \* \*

§ 16. **Pending Actions—Process.**—SEC. 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of either of the Territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the State succeeding the Territory from which such record is or may be pending, or to the supreme court of such State, as the nature of the case may require. \* \* \* And each of the circuit, district and state courts, herein named, shall, respectively, be the successor of the supreme court of the Territory, as to all such cases aris-

ing within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne, or final powers therein; and that from all judgments and decrees of the supreme court of either of the Territories mentioned in this act in any case arising within the limits of any of the proposed States prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said State into the union.

**§ 17. Transfer of Pending Actions, etc.—SEC. 23.** That in respect to all cases, proceedings and matters now pending in the supreme or district courts of either of the Territories mentioned in this act, at the time of the admission into the union of either of the States mentioned in this act, and arising within the limits of any such State, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts respectively, shall be the successors of said supreme and district courts of said Territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the Territories mentioned in this act at the time of the admission of such Territory into the union, arising within the limits of said proposed State, the courts established by such State shall, respectively, be the successors of said supreme and district Territorial courts; and all the files, records, indictments and proceedings relating to any such cases, shall be transferred to such circuit, district and State courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the States mentioned in this act, shall be pending in any Territorial court in any of the Territories mentioned in this act, shall abate by the admission of any such state into the union, but the same shall be transferred and proceeded with in the proper United States circuit, district or State court, as the case may be: *Provided, however,* That in all civil actions, causes and proceedings, in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States, except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper State courts.

**§ 18. Territorial Laws Continued in Force.—SEC. 24.** \* \* \* And all laws in force made by said Territories, at the time of their admission into the union, shall be in force in said States, except as modified or changed by this act or by the constitutions of the States, respectively.

**§ 19. Repealing Clause.—SEC. 25.** That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said Territories or by congress, are hereby repealed.

## TITLE II.—CONSTITUTION.

No. 1266.—CONSTITUTION OF THE STATE OF WASHINGTON.<sup>1</sup>

§ 1. **Preamble.**—We, the people of the State of Washington, grateful to the Supreme Ruler of the Universe for our liberties, do ordain this constitution:

## ARTICLE I.—DECLARATION OF RIGHTS.

§ 2. **Source of Political Power.**—SECTION 1. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

§ 3. **Supreme Law.**—SEC. 2. The constitution of the United States is the supreme law of the land.

§ 4. **Due Process of Law.**—SEC. 3. No person shall be deprived of life, liberty or property without due process of law.

\* \* \* \* \*

§ 5. **Irrevocable Privileges, etc., Prohibited.**—SEC. 8. No law granting irrevocably any privilege, franchise or immunity shall be passed by the legislature.

\* \* \* \* \*

§ 6. **Religious Liberty.**—SEC. 11. Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion, but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the State. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment. \* \* \*

§ 7. **Special Privileges Prohibited.**—SEC. 12. No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

\* \* \* \* \*

§ 8. **Forfeiture of Estate.**—SEC. 15. No conviction shall work corruption of blood nor forfeiture of estate.

§ 9. **Appropriation of Private Property.**—SEC. 16. Private property shall not be taken for private use, except for private ways of necessity, and for drains, flumes or ditches on or across the lands of others for agricultural, domestic or sanitary purposes. No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner, and no right-of-way shall be appropriated to the use of any corporation other than municipal, until full compensation therefor be first made in money, or ascertained and paid into the court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived as in other civil cases in courts of record, in the manner prescribed by law. Whenever an attempt is made to take private property for a use alleged to be

<sup>1</sup> Certified and signed by the members of the constitutional convention, on August 22, 1889; adopted by the people, October 1, 1889; proclaimed by the president of the United States, November 11, 1889.

public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

\* \* \* \* \*

§ 10. **Attainder, etc.**—SEC. 23. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts, shall ever be passed.

\* \* \* \* \*

§ 11. **Constitution Mandatory: Exception.**—SEC. 29. The provisions of this constitution are mandatory, unless by express words they are declared to be otherwise.

§ 12. **Rights Unenumerated Not Denied.**—SEC. 30. The enumeration in this constitution of certain rights shall not be construed to deny others retained by the people.

\* \* \* \* \*

#### ARTICLE II.—LEGISLATIVE DEPARTMENT.

§ 13. **Legislature.**—The legislative powers shall be vested in a senate and house of representatives, which shall be called the legislature of the State of Washington.

\* \* \* \* \*

§ 14. **Laws: Enacting Clause.**—SEC. 18. The style of the laws of the State shall be: "Be it enacted by the legislature of the State of Washington." And no law shall be enacted except by bill.

§ 15. **Title.**—SEC. 19. No bill shall embrace more than one subject, and that shall be expressed in the title.

\* \* \* \* \*

§ 16. **Manner of Voting on Passage.**—SEC. 22. No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal of each house, and a majority of the members elected to each house be recorded thereon as voting in its favor.

\* \* \* \* \*

§ 17. **Legislative Divorces Prohibited.**—SEC. 24. The legislature shall never authorize any lottery or grant any divorce.

\* \* \* \* \*

§ 18. **Suits Against the State.**—SEC. 26. The legislature shall direct by law in what manner and in what courts suits may be brought against the State.

\* \* \* \* \*

§ 19. **Special Legislation Prohibited.**—SEC. 28. The legislature is prohibited from enacting any private or special law in the following cases: (1) For changing the names of persons, or constituting one person the heir-at-law of another. (2) For laying out, opening or altering highways, except in cases of State roads, extending into more than one county, and military roads, to aid in the construction of which lands shall have been or may be granted by congress. \* \* \* (4) For authorizing the sale or mortgage of real or personal property of minors or others under disability. (5) For assessment or collection of taxes, or for extending the time for collection thereof. (6) For granting corporate powers or privileges. \* \* \* (8) For incorporating any town or village, or to amend the charter thereof. (9) [From] giving effect to invalid deeds, wills or other instruments. (10) Releasing or extinguishing, in whole or in part, the indebtedness, liability or other obligation of any person or corporation to this State, or to any municipal corporation therein. (11) Declaring any person of age, or authorizing any minor to sell, lease or encumber his or her property. (12) Legalizing, except as against the State, the unauthorized or invalid act of any officer. \* \* \* (16) Authorizing the adoption of children. (17) For limitation of civil or



criminal action. (18) Changing county lines, locating or changing county seats: *Provided*, This shall not be construed to apply to the creation of new counties.

\* \* \* \* \*  
 § 20. **When Laws Take Effect.**—SEC. 31. No law, except appropriation bills, shall take effect until ninety days after the adjournment of the session at which it was enacted, unless in the case of an emergency (which emergency must be expressed in the preamble or in the body of the act) the legislature shall otherwise direct by a vote of two-thirds of all the members elected to each house; said vote to be taken by yeas and nays and entered on the journals.

§ 21. **Presiding Officers to Sign.**—SEC. 32. No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session, and under such rules as the legislature shall prescribe.

§ 22. **Ownership of Lands by Aliens.**—SEC. 33. The ownership of lands by aliens, other than those who in good faith have declared their intention to become citizens of the United States, is prohibited in this State, except where acquired by inheritance, under mortgage or in good faith in the ordinary course of justice in the collection of debts; and all conveyances of lands hereafter made to any alien directly, or in trust for such alien, shall be void: *Provided*, That the provisions of this section shall not apply to lands containing valuable deposits of minerals, metals, iron, coal or fire clay, and the necessary land for mills and machinery to be used in the development thereof and the manufacture of the products therefrom. Every corporation, the majority of the capital stock of which is owned by aliens, shall be considered an alien for the purposes of this prohibition.

\* \* \* \* \*  
 § 23. **How Law Amended.**—SEC. 37. No act shall ever be revised or amended by mere reference to its title, but the act revised or the section amended shall be set forth at full length.

§ 24. **Certain Amendments Prohibited.**—SEC. 38. No amendment to any bill shall be allowed which shall change the scope and object of the bill.

\* \* \* \* \*  
 ARTICLE III.—THE EXECUTIVE.

§ 25. **Executive Department; How Constituted.**—SECTION 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, \* \* \* and a commissioner of public lands, \* \* \*

\* \* \* \* \*  
 § 26. **Duties of Governor: Order of Succession.**—SEC. 10. In case of the removal, resignation, death or disability of the governor, the duties of the office shall devolve upon the lieutenant governor, and in case of a vacancy in both the offices of governor and lieutenant governor, the duties of governor shall devolve upon the secretary of state, who shall act as governor until the disability be removed or a governor be elected.

\* \* \* \* \*  
 § 27. **Enactment of Laws: Duties and Powers of Governor.**—SEC. 12. Every act which shall have passed the legislature shall be, before it becomes a law, presented to the governor. If he approves, he shall sign it; but if not he shall return it, with his objections, to that house in which it shall have originated, which house shall enter the objections at large upon the journal and proceed to reconsider. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the

members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for or against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the governor within five days, Sunday excepted, after it shall be presented to him, it shall become a law without his signature, unless the general adjournment shall prevent its return, in which case it shall become a law unless the governor, within ten days next after the adjournment, Sunday excepted, shall file such bill, with his objections thereto, in the office of secretary of state, who shall lay the same before the legislature at its next session in like manner as if it had been returned by the governor. If any bill presented to the governor contains several sections or items, he may object to one or more sections or items while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the section or sections, item or items to which he objects and the reasons therefor, and the section or sections, item or items so objected to shall not take effect unless passed over the governor's objection as hereinbefore provided.

\* \* \* \* \*

§ 28. **Commissions: Manner of Issuance.**—SEC. 15. All commissions shall issue in the name of the State, shall be signed by the governor, sealed with the seal of the State, and attested by the secretary of state.

\* \* \* \* \*

§ 29. **Seal of State.**—SEC. 18. There shall be a seal of the State kept by the secretary of state for official purposes which shall be called "the seal of the State of Washington."

\* \* \* \* \*

§ 30. **Duties of Land Commissioner.**—SEC. 23. The commissioner of public lands shall perform such duties and receive such compensation as the legislature may direct.

\* \* \* \* \*

§ 31. **Certain Offices May be Abolished.**—SEC. 25. \* \* \* The legislature may in its discretion abolish the offices of lieutenant governor, \* \* \* and commissioner of public lands.

#### ARTICLE IV.—THE JUDICIARY.

§ 32. **Courts.**—SECTION 1. The judicial power of the State shall be vested in a supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may provide.

§ 33. **Supreme Court—How Constituted, etc.**—SEC. 2. The supreme court shall consist of five judges, a majority of whom shall be necessary to form a quorum and pronounce a decision. The said court shall always be open for the transaction of business except on non-judicial days. In the determination of causes, all decisions of the court shall be given in writing and the grounds of the decision shall be stated. The legislature may increase the number of judges of the supreme court from time to time, and may provide for separate departments of said court.

\* \* \* \* \*

§ 34. **Jurisdiction of Supreme Court.**—SEC. 4. The supreme court shall have \* \* \* appellate jurisdiction in all actions and proceedings, excepting that its appellate jurisdiction shall not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy or the value of the property does not exceed the sum of two hundred dollars (\$200), unless the action involves the legality of a tax, impost, assessment, toll, municipal fine or the validity of a statute. \* \* \*

§ 35. **Superior Courts.**—SEC. 5. There shall be in each of the organized counties of this State a superior court \* \* \*

§ 36. **Jurisdiction of Superior Courts.**—SEC. 6. The superior court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to one hundred dollars, \* \* \* of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce, and for annulment of marriage; and for such special cases and proceedings as are not otherwise provided for. The superior court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court; and said court shall have the power of naturalization, and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law. They shall be always open, except on non-judicial days, and their process shall extend to all parts of the State.  
\* \* \*

§ 37. **Powers Judges pro tem.**—SEC. 7. The judge of any superior court may hold a superior court in any county at the request of the judge of the superior court thereof, and upon the request of the governor it shall be his duty to do so. A case in the superior court may be tried by a judge *pro tempore*, who must be a member of the bar, agreed upon in writing by the parties litigant or their attorneys of record, approved by the court and sworn to try the case.

\* \* \*  
§ 38. **Justices of Peace.**—SEC. 10. The legislature shall determine the number of justices of the peace to be elected in incorporated cities or towns and in precincts, and shall prescribe by law the powers, duties and jurisdiction of justices of the peace: *Provided*, That such jurisdiction granted by the legislature shall not trench upon the jurisdiction of superior or other courts of record, \* \* \*

§ 39. **Courts of Record.**—SEC. 11. The supreme court and the superior courts shall be courts of record, and the legislature shall have power to provide that any of the courts of this State excepting justices of the peace shall be courts of record.

§ 40. **Jurisdiction of Inferior Courts.**—SEC. 12. The legislature shall prescribe by law the jurisdiction and powers of any of the inferior courts which may be established in pursuance of this constitution.

\* \* \*  
§ 41. **Clerk of Supreme Court.**—SEC. 22. The judges of the supreme court shall appoint a clerk of that court, who shall be removable at their pleasure, but the legislature may provide for the election of the clerk of the supreme court and prescribe the term of his office. \* \* \*

§ 42. **Court Commissioners.**—SEC. 23. There may be appointed in each county, by the judge of the superior court having jurisdiction therein, one or more court commissioners, not exceeding three in number, who shall have authority to perform like duties as a judge of the superior court at chambers, subject to revision by such judge, to take depositions and to perform such other business connected with the administration of justice as may be prescribed by law.

§ 43. **Rules of Court.**—SEC. 24. The judges of the superior court shall, from time to time, establish uniform rules for the government of the superior courts.

\* \* \*  
§ 44. **Clerk of Superior Court.**—SEC. 26. The county clerk shall be, by virtue of his office, clerk of the superior court.

§ 45. **Style of Process.**—SEC. 27. The style of all process shall be "The State of Washington," and all prosecutions shall be conducted in its name and by its authority.

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#### ARTICLE VII.—REVENUE AND TAXATION.

§ 46. **General Rule—What Taxable.**—SECTION 1. All property in the State, not exempt under the laws of the United States or under this constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. The legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the estimated ordinary expenses of the State for each fiscal year. And for the purpose of paying the State debt, if there be any, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and principal of such debt within twenty years from the final passage of the law creating the debt.

§ 47. **To be Uniform—Exemptions.**—SEC. 2. The legislature shall provide by law a uniform and equal rate of assessment and taxation on all property in the State, according to its value in money, and shall prescribe such regulations by general law as shall secure a just valuation for taxation of all property, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property: *Provided*, That a deduction of debts from credits may be authorized: *Provided further*, That the property of the United States, and of the State, counties, school districts and other municipal corporations, and such other property as the legislature may by general laws provide, shall be exempt from taxation.

§ 48. **Corporation Property: How Taxable.**—SEC. 3. The legislature shall provide by general law for the assessing and levying of taxes on all corporation property as near as may be by the same methods as are provided for the assessing and levying of taxes on individual property.

§ 49. **Right to Tax Such Property.**—SEC. 4. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party.

§ 50. **Taxation Must be Pursuant to Law.**—SEC. 5. No tax shall be levied except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

§ 51. **State Taxes.**—SEC. 6. All taxes levied and collected for State purposes shall be paid in money only into the State treasury.

\* \* \* \* \*

§ 52. **Tax for Deficiency.**—SEC. 8. Whenever the expenses of any fiscal year shall exceed the income, the legislature may provide for levying a tax for the ensuing fiscal year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of the ensuing fiscal year.

§ 53. **Delegation of Certain Powers of Taxation to Municipal Corporations.**—SEC. 9. The legislature may vest the corporate authorities of cities, towns and villages with the power to make local improvements by special assessment, or by special taxation of property benefited. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, and such taxes shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

\* \* \* \* \*

#### ARTICLE XI.—COUNTY, CITY AND TOWNSHIP ORGANIZATION.

§ 54. **Existing Counties Recognized.**—SECTION 1. The several counties of the Territory of Washington existing at the time of the adoption of this constitution are hereby recognized as legal subdivisions of this State.

\* \* \* \* \*

**§ 55. Formation of New Counties.**—SEC. 3. No new county shall be established which shall reduce any county to a population of less than four thousand (4,000), nor shall a new county be formed containing a less population than two thousand (2,000). There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition therefor, and then only under such other conditions as may be prescribed by a general law applicable to the whole State. Every county which shall be enlarged or created from territory taken from any other county or counties shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken: *Provided*, That in such accounting neither county shall be charged with any debt or liability then existing, incurred in the purchase of any county property or in the purchase or construction of any county buildings then in use or under construction, which shall fall within and be retained by the county: *Provided further*, That this shall not be construed to affect the rights of creditors.

**§ 56. System of Government.**—SEC. 4. The legislature shall establish a system of county government which shall be uniform throughout the State, and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine, and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county, and the local affairs of the several townships therein, shall be managed and transacted in the manner prescribed by such general law.

**§ 57. Officers.**—SEC. 5. The legislature, by general and uniform laws, shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys, and other county, township or precinct and district officers, as public convenience may require, and shall prescribe their duties and fix their terms of office. \* \* \*

\* \* \*  
**§ 58. No Release From Taxation.**—SEC. 9. No county, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatever.

**§ 59. General Incorporation Law to be Enacted—Cities of 20,000 Inhabitants: Powers of.**—SEC. 10. Corporations for municipal purposes shall not be created by special laws; but the legislature, by general laws, shall provide for the incorporation, organization and classification, in proportion to population, of cities and towns, which laws may be altered, amended or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this constitution, shall be subject to and controlled by general laws. Any city containing a population of twenty thousand inhabitants, or more, shall be permitted to frame a charter for its own government, consistent with and subject to the constitution and laws of this State, and for such purpose the legislative authority of such city may cause an election to be had, at which election there shall be chosen, by the qualified electors of said city, fifteen freeholders thereof, who shall have been residents of said city for a period of at least two years preceding their election, and qualified electors, whose duty it shall be to convene within ten days after their election and prepare and propose a charter for such city. Such proposed charter shall be submitted to the qualified electors of said city, and if a majority of such qualified electors voting



thereon ratify the same, it shall become the charter of said city, and shall become the organic law thereof, and supersede any existing charter, including amendments thereto, and all special laws inconsistent with such charter. Said proposed charter shall be published in two daily newspapers published in said city, for at least thirty days prior to the day of submitting the same to the electors for their approval, as above provided. All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election, and shall be given for at least ten days before the day of election, in all election districts of said city. Said elections may be general or special elections, and except as herein provided shall be governed by the law regulating and controlling general or special elections in said city. Such charter may be amended by proposals therefor submitted by the legislative authority of such city to the electors thereof at any general election after notice of said submission published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter, or amendment thereto, any alternate article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

\* \* \* \* \*

**§ 60. General Municipal Powers of Taxation.**—SEC. 12. The legislature shall have no power to impose taxes upon counties, cities, towns or other municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may by general laws vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

**§ 61. Appropriation of Private Property Only by Taxation.**—SEC. 13. Private property shall not be taken or sold for the payment of the corporate debt of any public or municipal corporation, except in the mode provided by law for the levy and collection of taxes.

\* \* \* \* \*

#### ARTICLE XII.—CORPORATIONS OTHER THAN MUNICIPAL.

**§ 62. Private Corporations: Formation of, etc.**—SECTION 1. Corporations may be formed under general laws, but shall not be created by special acts. All laws relating to corporations may be altered, amended or repealed by the legislature at any time, and all corporations doing business in this State may, as to such business, be regulated, limited or restrained by law.

**§ 63. Validity of Existing Charters.**—SEC. 2. All existing charters, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this constitution, shall thereafter have no validity.

**§ 64. Franchise Shall Not be Extended, etc.**—SEC. 3. The legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this State.

\* \* \* \* \*

**§ 65. "Corporations" Defined—General Powers.**—SEC. 5. The term corporations, as used in this article, shall be construed to include all associations and joint stock companies having any powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons.

\* \* \* \* \*

**§ 66. Foreign Corporations Not to be Favored.**—SEC. 7. No corporation organized outside the limits of this State shall be allowed to transact business within the State on more favorable conditions than are

prescribed by law to similar corporations organized under the laws of this State.

§ 67. **Certain Leases and Sales Prohibited.**—SEC. 8. No corporation shall lease or alienate any franchise, so as to relieve the franchise, or property held thereunder, from the liabilities of the lessor, or grantor, lessee, or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise or any of its privileges.

\* \* \* \* \*

§ 68. **Right of Eminent Domain.**—SEC. 10. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the legislature from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals.

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§ 69. **Certain Consolidation of Property Prohibited.**—SEC. 16. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a competing line.

\* \* \* \* \*

§ 70. **Telegraph and Other Companies—Right-of-Way, etc.**—SEC. 19. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph and telephone within this State, and said companies shall receive and transmit each other's messages without delay or discrimination, and all of such companies are hereby declared to be common carriers and subject to legislative control. Railroad corporations organized or doing business in this State shall allow telegraph and telephone corporations and companies to construct and maintain telegraph lines on and along the rights-of-way of such railroads and railroad companies, and no railroad corporation organized or doing business in this State shall allow any telegraph corporation or company any facilities, privileges or rates for transportation of men or material, or for repairing their lines, not allowed to all telegraph companies. The right of eminent domain is hereby extended to all telegraph and telephone companies. The legislature shall by general law of uniform operation, provide reasonable regulations to give effect to this section.

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§ 71. **Monopolies, etc., Prohibited.**—SEC. 22. Monopolies and trusts shall never be allowed in this State, \* \* \*

\* \* \* \* \*

#### ARTICLE XV.—HARBORS AND TIDE WATERS.

§ 72. **Harbor Line Commission; Appointment and Duties—Rights Beyond Harbor Line.**—SECTION 1. The legislature shall provide for the appointment of a commission whose duty it shall be to locate and establish harbor lines in the navigable waters of all harbors, estuaries, bays and inlets of this State, wherever such navigable waters lie within or in front of the corporate limits of any city or within one mile thereof upon either side. The State shall never give, sell or lease to any private person, corporation or association any rights whatever in the waters beyond such harbor lines, nor shall any of the area lying between any harbor line and the line of ordinary high tide, and within not less than fifty feet nor more than 600 feet of such harbor line (as the commissioners shall determine) be sold or granted by the State, nor its right to control the same relinquished, but such area shall be forever reserved for landings, wharves, streets and other conveniences of navigation and commerce.

§ 73. **Manner of Leasing of Such Rights.**—SEC. 2. The legislature shall provide general laws for the leasing of the right to build and maintain wharves, docks and other structures upon the areas mentioned in sec-

tion 1 of this article, but no lease shall be made for any term longer than thirty years, or the legislature may provide by general laws for the building and maintaining upon such area, wharves, docks and other structures.

§ 74. **Extension of Streets Over.**—SEC. 3. Municipal corporations shall have the right to extend their streets over intervening tide lands to and across the area reserved as herein provided.

#### ARTICLE XVI.—SCHOOL AND GRANTED LANDS.

§ 75. **Control and Disposition.**—SECTION 1. All the public lands granted to the State are held in trust for all the people, and none of such lands, nor any estate or interest therein, shall ever be disposed of, unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the State; nor shall any lands which the State holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States.

§ 76. **Manner of Sale.**—SEC. 2. None of the lands granted to the State for educational purposes shall be sold otherwise than at public auction to the highest bidder. The value thereof, less the improvements, shall, before any sale, be appraised by a board of appraisers, to be provided by law, the terms of payment also to be prescribed by law, and no sale shall be valid unless the sum bid be equal to the appraised value of said land. In estimating the value of such lands for disposal, the value of the improvements thereon shall be excluded: *Provided*, That the sale of all school and university land heretofore made by the commissioners of any county or the university commissioners, when the purchase price has been paid in good faith, may be confirmed by the legislature.

§ 77. **Limitations on Sale.**—SEC. 3. No more than one-fourth of the land granted to the State for educational purposes shall be sold prior to January 1, 1895, and not more than one-half prior to January 1, 1905: *Provided*, That nothing herein shall be so construed as to prevent the State from selling the timber or stone off of any of the State lands in such manner and on such terms as may be prescribed by law: *And provided further*, That no sale of timber land shall be valid unless the full value of such land is paid or secured to the State.

§ 78. **What Amount May be Sold—When to be Platted.**—SEC. 4. No more than one hundred and sixty (160) acres of any granted lands of the State shall be offered for sale in one parcel, and all lands within the limits of any incorporated city, or within two miles of the boundary of any incorporated city, where the valuation of such lands shall be found by appraisement to exceed one hundred dollars (\$100) per acre, shall, before the same be sold, be platted into lots and blocks of not more than five acres in a block, and not more than one block shall be offered for sale in one parcel.

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#### ARTICLE XVII.—TIDE LANDS.

§ 79. **Ownership Asserted.**—SECTION 1. The State of Washington asserts its ownership to the beds and shores of all navigable waters in the State up to and including the line of ordinary high tide in waters where the tide ebbs and flows; and up to and including the line of ordinary high water within the banks of all navigable rivers and lakes: *Provided*, That this section shall not be construed so as to debar any person from asserting his claim to vested rights in the courts of the State.

§ 80. **Patented Lands Disclaimed.**—SEC. 2. The State of Washington disclaims all title in and claim to all tide, swamp and overflowed lands

patented by the United States: *Provided*, The same is not impeached for fraud.

ARTICLE XVIII.—STATE SEAL.

§ 81. **Description.**—SECTION 1. The seal of the State of Washington shall be a seal encircled with the words: "The seal of the State of Washington," with the vignette of Gen. George Washington as the central figure, and beneath the vignette the figures "1889."

ARTICLE XIX.—EXEMPTIONS.

§ 82. **Homesteads.**—SECTION 1. The legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families.

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ARTICLE XXI.—WATER AND WATER RIGHTS.

§ 83. **Use for Irrigation, etc.**—SECTION 1. The use of the waters of the State for irrigation, mining and manufacturing purposes shall be deemed a public use.

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ARTICLE XXIII.—AMENDMENTS.

§ 84. **How Proposed and Submitted.**—SECTION 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislature, and if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered in their journals, with the ayes and noes thereon, and be submitted to the qualified electors of the State for their approval, at the next general election, and if the people approve and ratify such amendment or amendments, by a majority of the electors voting thereon, the same shall become part of this constitution, and proclamation thereof shall be made by the governor: *Provided*, That if more than one amendment be submitted, they shall be submitted in such a manner that the people may vote for or against such amendments separately. The legislature shall also cause the amendments that are to be submitted to the people to be published for at least three months next preceding the election, in some weekly newspaper in every county where a newspaper is published throughout the State.

\* \* \* \* \*

ARTICLE XXIV.—BOUNDARIES.

§ 85. **Definition of.**—SECTION 1. The boundaries of the State of Washington shall be as follows: Beginning at a point in the Pacific ocean one marine league due west of and opposite the middle of the mouth of the north ship channel of the Columbia river; thence running easterly to and up the middle channel of said river, and where it is divided by islands, up the middle of the widest channel thereof, to where the forty-sixth parallel of north latitude crosses said river, near the mouth of the Walla Walla river; thence east on said forty-sixth parallel of latitude to the middle of the main channel of the Shoshone or Snake river; thence follow down the middle of the main channel of Snake river to a point opposite the mouth of the Kooskooskia or Clear Water river; thence due north to the forty-ninth parallel of north latitude; thence west along said forty-ninth parallel of north latitude to the middle of the channel which separates Vancouver's Island from the continent, that is to say, to a point in longitude 123 degrees, 19 minutes and 15 seconds west; thence following the boundary line between the United States and British possessions through the channel which separates Vancouver's Island from the continent to the termination of the boundary line between the United States and British possessions at a point in the Pacific ocean equidistant be-

tween Bonnilla Point, on Vancouver's Island, and Tatoosh Island lighthouse; thence running in a southerly course and parallel with the coast line, keeping one marine league off shore, to place of beginning.

ARTICLE XXV — JURISDICTION.

§ 86. **Military, and Other Reserves — Process.**—SECTION 1. The consent of the State of Washington is hereby given to the exercise, by the congress of the United States, of exclusive legislation in all cases whatsoever over such tracts or parcels of land as are now held or reserved by the government of the United States for the purpose of erecting or maintaining thereon forts, magazines, arsenals, dockyards, lighthouses and other needful buildings, in accordance with the provisions of the seventeenth paragraph of the eighth section of the first article of the constitution of the United States,<sup>2</sup> so long as the same shall be so held and reserved by the United States: *Provided*, That a sufficient description by metes and bounds, and an accurate plat or map of each such tract or parcel of land be filed in the proper office of record in the county in which the same is situated, together with copies of the orders, deeds, patents or other evidences in writing of the title of the United States: *And provided*, That all civil process issued from the courts of this State, \* \* \* may be served and executed thereon in the same mode and manner, and by the same officers, as if the consent herein given had not been made.

ARTICLE XXVI.—COMPACT WITH THE UNITED STATES.

§ 87. **Religious Toleration — Unappropriated Public Lands — Indian Reserves — Territorial Debts — Common Schools.**—The following ordinance shall be irrevocable without the consent of the United States and the people of this State: *First*: That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship. *Second*: That the people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries of this State, and to all lands lying within said limits, owned or held by any Indian or Indian tribes, and that, until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States, and that the lands belonging to citizens of the United States, residing without the limits of this State, shall never be taxed at a higher rate than the lands belonging to residents thereof, and that no taxes shall be imposed by the State on lands or property therein belonging to or which may be hereafter purchased by the United States or reserved for use: *Provided*, That nothing in this ordinance shall preclude the State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, which exemption shall continue so long and to such an extent as such act of congress may prescribe. *Third*: The debts and liabilities of the Territory of Washington, and payment of the same, are hereby assumed by this State. *Fourth*: Provision shall be made for the

<sup>2</sup> Said provision is as follows, to wit: "The congress shall have power \* \* \* To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may by cession of particular states and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards and other needful buildings."



establishment and maintenance of systems of public schools free from sectarian control, which shall be open to all the children of said State.

ARTICLE XXVII.—SCHEDULE.

§ 88. **To Prevent Inconvenience.**—In order that no inconvenience may arise by reason of a change from a Territorial to a State government, it is hereby declared and ordained as follows:

§ 89. **Existing Rights, etc.—Process.**—SECTION 1. No existing rights, actions, suits, proceedings, contracts or claims shall be affected by a change in the form of government, but all shall continue as if no change had taken place; and all process which may have been issued under the authority of the Territory of Washington previous to its admission into the union shall be as valid as if issued in the name of the State.

§ 90. **Laws of the Territory Valid.**—SEC. 2. All laws now in force in the Territory of Washington, which are not repugnant to this constitution, shall remain in force until they expire by their own limitation, or are altered or repealed by the legislature: *Provided*, That this section shall not be so construed as to validate any act of the legislature of Washington Territory granting shore or tide lands to any person, company or any municipal corporation.

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§ 91. **Estate, etc., of Territory to Vest in State, etc.**—SEC. 4. All \* \* \* the estate, real, personal and mixed, and all judgments, decrees, bonds, specialties, choses in action, and claims or debts, of whatever description, belonging to the Territory of Washington, shall inure to and vest in the State of Washington, and may be sued for and recovered in the same manner, and to the same extent, by the State of Washington, as the same could have been by the Territory of Washington.

§ 92. **Pending Actions to be Transferred.**—SEC. 5. All \* \* \* actions at law and suits in equity which may be pending in any of the courts of the Territory of Washington, at the time of the change from a Territorial to a State government, shall be continued and transferred to the court of the State having jurisdiction of the subject-matter thereof.

\* \* \* \* \*

§ 93. **Transfer of Actions, etc., to State Courts.**—SEC. 8. Whenever the judge of the superior court of any county, elected or appointed under the provisions of this constitution, shall have qualified, the several causes then pending in the district court of the Territory, except such causes as would have been within the exclusive jurisdiction of the United States district court, had such court existed at the time of the commencement of such causes within such county, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the superior court of such county. And where the judge is elected for two or more counties, it shall be the duty of the clerk of the district court having custody of such papers and records to transmit to the clerk of such county or counties, other than that in which such records are kept, the original papers in all cases pending in such district and belonging to the jurisdiction of such county or counties, together with transcript of so much of the records of said district court as relate to the same; and until the district court of the Territory shall be superseded in manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and powers, to be exercised in the same judicial districts, respectively, as heretofore constituted under the laws of the Territory. Whenever a quorum of the judges of the supreme court of the State shall have been elected and qualified, the causes then pending in the supreme court of the Territory, except such causes as would have been within the exclusive jurisdiction of the United States circuit court, had such court existed at the time of the commencement of such causes, and the papers, records

and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the State, and until so superseded, the supreme court of the Territory and the judges thereof shall continue with like powers and jurisdiction as if this constitution had not been adopted.

§ 94. **Court Seals.**—SEC. 9. Until otherwise provided by law, the seal now in use in the supreme court of the Territory shall be the seal of the supreme court of the State. The seal of the superior courts of the several counties of the State shall be, until otherwise provided by law, the vignette of General George Washington, with the words: "Seal of the superior court of ——— county," surrounding the vignette. The seal of municipalities, and of all county officers of the Territory, shall be the seals of such municipalities and county officers, respectively, under the State, until otherwise provided by law.

§ 95. **Probate Court to Cease.**—SEC. 10. When the State is admitted into the union and the superior courts in their respective counties organized, the books, records, papers and proceedings of the probate court in each county, and all causes and matters of administration pending therein shall, upon the expiration of the term of office of the probate judges, on the second Monday in January, 1891, pass into the jurisdiction and possession of the superior court of the same county created by this constitution, and the said court shall proceed to final judgment or decree, order or other determination, in the several matters and causes as the Territorial probate court might have done if this constitution had not been adopted. And until the expiration of the term of office of the probate judges, such probate judges shall perform the duties now imposed upon them by the laws of the Territory. The superior courts shall have appellate and revisory jurisdiction over the decisions of the probate courts as now provided by law, until such latter courts expire by limitation.

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§ 96. **When to Take Effect.**—SEC. 16. The provisions of this constitution shall be in force from the day on which the president of the United States shall issue his proclamation declaring the State of Washington admitted into the union. \* \* \*

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### TITLE III.—PROCLAMATION OF ADMISSION.

#### No. 1267.—PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.<sup>1</sup>

§ 1. **Preamble.**—WHEREAS, The congress of the United States did, by an act approved on the twenty-second day of February, one thousand eight hundred and eighty-nine, provide that the inhabitants of the Territory of Washington might, upon the conditions prescribed in said act, become the State of Washington; and

WHEREAS, It was provided by said act that delegates elected as therein provided to a constitutional convention in the Territory of Washington should meet at the seat of government of said Territory, and that, after they had met and organized, they should declare on behalf of the people of Washington that they adopt the constitution of the United States:

<sup>1</sup> (Sec 26 U. S. Stat., p. 1552.)

whereupon the said convention should be authorized to form a State government for the proposed State of Washington; and

WHEREAS, It was provided by said act that the constitution so adopted should be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the Declaration of Independence; and that the convention should by an ordinance, irrevocable without the consent of the United States and the people of said State, make certain provisions prescribed in said act; and

WHEREAS, It was provided by said act that the constitution thus formed for the people of Washington should, by an ordinance of the convention forming the same, be submitted to the people of Washington at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine, for ratification or rejection by the qualified voters of said proposed State; and that the returns of said election should be made to the secretary of said Territory, who, with the governor and chief justice thereof, or any two of them, should canvass the same; and if a majority of the legal votes cast should be for the constitution, the governor should certify the result to the president of the United States, together with a statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said constitution, articles, propositions and ordinances; and

WHEREAS, It has been certified to me by the governor of said territory that within the time prescribed by said act of congress a constitution for the proposed State of Washington has been adopted, and that the same has been ratified by a majority of the qualified voters of said proposed State in accordance with the conditions prescribed in said act; \* \* \*

§ 2. **Proclamation.**—Now, therefore, I, Benjamin Harrison, president of the United States of America, do, in accordance with the provisions of the act of congress aforesaid, declare and proclaim the fact that the conditions imposed by congress on the State of Washington to entitle that State to admission to the union have been ratified and accepted, and that the admission of the said State into the union is now complete.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this eleventh (11th) day of November, in the year of our Lord one thousand eight hundred and eighty-nine, and of the independence of the United States of America the one hundred and fourteenth.

[SEAL.]

BENJ. HARRISON.

By the President: JAMES G. BLAINE, *Secretary of State*.

## DIVISION II.—LAWS OF CONGRESS.

## TITLE I.—CORPORATIONS.

## CHAPTER I.—CASCADE RAILROAD COMPANY.

**No. 1268.**—AN ACT TO GRANT THE RIGHT-OF-WAY TO THE "CASCADE RAILROAD COMPANY" THROUGH A MILITARY RESERVE IN WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Preamble.**—WHEREAS, The Cascade Railroad Company, a corporation duly created and organized under the laws of Washington Territory, has constructed and put in operation a railroad on the Cascade portage of the Columbia river, in said Territory, a portion of which said road is constructed through a military reserve of the United States; and whereas, doubts have arisen as to the right to construct such road through said reserve and the validity of the charter of said company: therefore,

§ 2. **Right-of-Way.**—*Be it enacted, etc.,* That there shall be and is hereby granted to the said Cascade Railroad Company a right-of-way of sixty feet in width along the line of said road as at present constructed and along the changes of location hereafter made to straighten and render said road safe, through the public lands of the United States, the military reserve and the lands of private persons agreeing thereto, including all necessary grounds for stations, buildings, work shops, depots, machine shops, switches, side tracks and wharves; and the charter of said company is hereby adopted and declared to be valid: *Provided,* That nothing in this act shall be so construed as to give said company the right to occupy for any purpose whatever more than sixty feet in width on the line of said road at any point or points where the space or pass between the river and bluff or mountain is so narrow as not to admit of the construction of another parallel railroad, turnpike, road, canal or other public work for transportation of freight or passengers.

<sup>1</sup> Approved April 10, 1866. (See 14 U. S. Stat., p. 31.)

## CHAPTER II.—NORTHERN PACIFIC RAILROAD COMPANY.

**No. 1269.**—AN ACT GRANTING LANDS TO AID IN THE CONSTRUCTION OF A RAILROAD AND TELEGRAPH LINE FROM LAKE SUPERIOR TO PUGET SOUND, ON THE PACIFIC COAST, BY THE NORTHERN ROUTE.<sup>1</sup>

§ 1. **Incorporators—Name—General Powers—Location—Termination—Organization.**—*Be it enacted, etc.,* That Richard D. Rice, John A. Poore, Samuel P. Strickland, Samuel C. Fessenden, Charles P. Kimball, Augustine Haines, Edwin R. W. Wiggin, Anson P. Morrill, Samuel J. Anderson,

<sup>1</sup> Approved July 2, 1864. (See 13 U. S. Stat., p. 365.)

of Maine; Willard Sears, I. S. Withington, Josiah Perham, James M. Becket, A. W. Banfield, Abiel Abbott, John Newell, Austin L. Rogers, Nathaniel Greene, jr., Oliver Frost, John A. Bass, John O. Bresbrey, George Shiverick, Edward Tyler, Filander J. Forristall, Ivory H. Pope, of Massachusetts; George Opdyke, Fairley Holmes, John Huggins, Philander Reed, George Briggs, Chauncy Vibbard, John C. Fremont, of New York; Ephriam Marsh, John P. Jackson, jr., of New Jersey; S. M. Felton, John Toy, O. J. Dickey, B. F. Archer, G. W. Cass, J. Edgar Thompson, John A. Green, of Pennsylvania; T. M. Allyn, Moses W. Wilson, Horace Whittaker, Ira Bliss, of Connecticut; Joseph A. Gilmore, Onslow Stearns, E. P. Emerson, Frederick Smyth, William E. Chandler, of New Hampshire; Cyrus Aldrich, H. M. Rice, John McKusick, H. C. Waite, Stephen Miller, of Minnesota; E. A. Chapin, John Gregory Smith, George Merrill, of Vermont; James Y. Smith, William S. Slater, Isaac H. Southwick, Earl P. Mason, of Rhode Island; Seth Fuller, William Kellogg, U. S. Grant, William B. Ogden, William G. Greene, Leonard Sweat, Henry W. Blodgett, Porter Sheldon, of Illinois; J. M. Winchell, Elsworth Cheesbrough, James S. Emery, of Kansas; Richard F. Perkins, Richard Chenery, Samuel Brannan, George Rowland, Henry Platt, of California; William F. Mercer, James W. Brownley, of Virginia; John H. B. Latrobe, W. Prescott Smith, of Maryland; Greenbury Slack, A. J. Boreman, of West Virginia; Thomas E. Bramlette, Frank Shorin, of Kentucky; John Brough, John A. Bingham, Oran Follett, John Gardner, S. S. L'Hommedieu, Harrison G. Blake, Philo Chamberlin, of Ohio; John A. Duncan, Samuel M. Harrington, of Delaware; Thomas A. Morris, Jesse L. Williams, of Indiana; Samuel L. Case, Henry L. Hall, David H. Jerome, Thomas D. Gilbert, C. A. Trowbridge, of Michigan; Edward H. Broadhead, Alexander Mitchell, Benjamin Ferguson, Levi Sterling, — Marshall, of Wisconsin; J. C. Ainsworth, Orlando Humason, H. W. Corbett, Henry Failling, of Oregon; J. B. S. Todd, M. K. Armstrong, J. Shaw Gregory, J. Le Berge, of Dakota Territory; John Mullen, Anson G. Henry, S. D. Smith, Charles Terry, of Washington Territory; H. W. Starr, Platt Smith, Nixon Denton, William Leighton, B. F. Allen, Reuben Noble, John L. Davies, of Iowa; Willard P. Hall, George R. Smith, H. Gayle King, John C. Sargeant, of Missouri; William H. Wallace, of Idaho Territory; J. H. Lathrop, Henry D. Cook, H. E. Merrick, of the District of Columbia, and all such other persons who shall or may be associated with them, and their successors, are hereby created and erected into a body corporate and politic, in deed and in law, by the name, style and title of the "Northern Pacific Railroad Company," and by that name shall have perpetual succession and shall be able to sue and to be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal. And said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain and enjoy a continuous railroad and telegraph line with the appurtenances, namely, beginning at a point on Lake Superior, in the State of Minnesota or Wisconsin; thence westerly by the most eligible railroad route as shall be determined by said company, within the territory of the United States on a line north of the forty-fifth degree of latitude to some point on Puget's Sound, with a branch, *via* the valley of the Columbia river, to a point at or near Portland, in the State of Oregon, leaving the main trunk line at the most suitable place not more than three hundred miles from its western terminus; and is hereby vested with all the powers, privileges and immunities necessary to carry into effect the purposes of this act as herein set forth. The capital stock of said company shall consist of one million shares of one hundred dollars each, which shall in all respects be deemed personal property, and shall be transferrable in such manner as the by-laws of said corporation shall provide. The persons hereinbefore named are hereby appointed commissioners, and shall be called the board of commissioners of the "Northern Pacific Railroad Company," and fifteen



shall consti[t]ute a quorum for the transaction of business. The first meeting of said board of commissioners shall be held at the Melodica hall, in the city of Boston, at such time as any five commissioners herein named from Massachusetts shall appoint, not more than three months after the passage of this act, notice of which shall be given by them to the other commissioners by publishing said notice in at least one daily newspaper in the cities of Boston, New York, Philadelphia, Cincinnati, Milwaukee and Chicago, once a week at least four weeks previous to the day of meeting. Said board shall organize by the choice from its number of a president, vice president, secretary and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may from time to time increase the amount thereof as they may deem proper. The secretary shall be sworn to the faithful performance of his duties, and such oath shall be entered upon the records of the company signed by him, and the oath verified thereon. The president and secretary of said board shall in like manner call all other meetings, naming the time and place thereof. It shall be the duty of said board of commissioners to open books, or cause books to be opened, at such times, and in such principal cities or other places in the United States as they, or a quorum of them, shall determine, within six months after the passage of this act, to receive subscriptions to the capital stock of said corporation, and a cash payment of ten per centum on all subscriptions, and to receipt therefor. So soon as twenty thousand shares shall in good faith be subscribed for, and ten dollars per share actually paid into the treasury of the company, the said president and secretary of said board of commissioners shall appoint a time and place for the first meeting of the subscribers to the stock of said company, and shall give notice thereof in at least one newspaper in each state in which subscription books have been opened, at least fifteen days previous to the day of meeting, and such subscribers as shall attend the meeting so called, either in person or by lawful proxy, then and there shall elect, by ballot, thirteen directors for said corporation; and in such election each share of said capital stock shall entitle the owner thereof to one vote. The president and secretary of the board of commissioners, and, in case of their absence or inability any two of the officers of said board, shall act as inspectors of said election and shall certify under their hands the names of the directors elected at said meeting; and the said commissioners, treasurer and secretary shall then deliver over to said directors all the properties, subscription books and other books in their possession, and thereupon the duties of said commissioners and the officers previously appointed by them shall cease and determine forever, and thereafter the stockholders shall constitute said body politic and corporate. Annual meetings of the stockholders of the said corporation for the choice of officers (when they are to be chosen) and for the transaction of business shall be holden at such time and place and upon such notice as may be prescribed in the by-laws.

§ 2. **Rights-of-Way, etc.**—SEC. 2. *And be it further enacted.* That the right-of-way through the public lands be and the same is hereby granted to said "Northern Pacific Railroad Company," its successors and assigns, for the construction of a railroad and telegraph as proposed; and the right, power and authority is hereby given to said corporation to take from the public lands, adjacent to the line of said road, material of earth, stone, timber, and so forth, for the construction thereof. Said way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary ground for station buildings, work shops, depots, machine shops, switches, side tracks, turn tables and water stations; and the right-of-way shall be exempt from taxation within the Territories of the United States. The United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the

Indian titles to all lands falling under the operation of this act, and acquired in the donation to the [road] named in this bill.

**§ 3. Grant of Lands.**—SEC. 3. *And be it further enacted,* That there be and hereby is granted to the "Northern Pacific Railroad Company," its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preëmption, or other claims or rights, at the time the line of said road is definitely fixed, and a plat thereof filed in the office of the commissioner of the general land office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the secretary of the interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections: *Provided,* That if said route shall be found upon the line of any other railroad route to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act: *Provided further,* That the railroad company receiving the previous grant of land may assign their interest to said "Northern Pacific Railroad Company," or may consolidate, confederate and associate with said company upon the terms named in the first section of this act: *Provided further,* That all mineral lands be and the same are hereby excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands, in odd numbered sections, nearest to the line of said road may be selected as above provided: *And provided further,* That the word "mineral," when it occurs in this act, shall not be held to include iron or coal: *And provided further,* That no money shall be drawn from the treasury of the United States to aid in the construction of the said "Northern Pacific Railroad."

**§ 4. Construction of Road—Acceptance—Patents.**—SEC. 4. *And be it further enacted,* That whenever said "Northern Pacific Railroad Company" shall have twenty-five consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the president of the United States shall appoint three commissioners to examine the same, and if it shall appear that twenty-five consecutive miles of said road and telegraph line have been completed in a good, substantial and workmanlike manner, as in all other respects required by this act, the commissioners shall so report to the president of the United States, and patents of land, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to, and coterminus with, said completed section of said road; and, from time to time, whenever twenty-five additional consecutive miles shall have been constructed, completed, and in readiness as aforesaid, and verified by said commissioners to the president of the United States, then patents shall be issued to said company conveying the additional sections of land, as aforesaid, and so on as fast as every twenty-five miles of said road is completed, as aforesaid: *Provided,* That not more than ten sections of land per mile, as said road shall be completed, shall be conveyed to said company for all that part of said railroad lying east of the western bound-

ary of the State of Minnesota, until the whole of said railroad, shall be finished and in good running order, as a first class railroad, from the place of beginning on Lake Superior to the western boundary of Minnesota: *Provided also*, That lands shall not be granted under the provisions of this act on account of any railroad, or part thereof, constructed at the date of the passage of this act.

**§ 5. Manner of Construction.**—SEC. 5. *And be it further enacted*. That said Northern Pacific Railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turnouts, stations and watering places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class, when prepared for business, with rails of the best quality, manufactured from American iron. And a uniform gauge shall be established throughout the entire length of the road. And there shall be constructed a telegraph line, of the most substantial and approved description, to be operated along the entire line: *Provided*. That the said company shall not charge the government higher rates than they do individuals for like transportation and telegraphic service. And it shall be the duty of the Northern Pacific Railroad Company to permit any other railroad, which shall be authorized to be built by the United States, or by the legislature of any Territory or State in which the same may be situated, to form running connections with it on fair and equitable terms.

**§ 6. Survey—Homestead and Pre-emption Laws Extended.**—SEC. 6. *And be it further enacted*, That the president of the United States shall cause the lands to be surveyed for forty miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale, or entry, or pre-emption before or after they are surveyed, except by said company, as provided in this act; but the provisions of the act of September, eighteen hundred and forty-one, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled, "An act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, shall be and the same are hereby extended to all other lands on the line of said road, when surveyed, excepting those hereby granted to said company. And the reserved alternate sections shall not be sold by the government at a price less than two dollars and fifty cents per acre, when offered for sale.

**§ 7. Manner of Appropriation of Private Property.**—SEC. 7. *And be it further enacted*, That the said "Northern Pacific Railroad Company" be and is hereby authorized and empowered to enter upon, purchase, take and hold any lands or premises that may be necessary and proper for the construction and working of said road, not exceeding in width two hundred feet on each side of the line of its railroad, unless a greater width be required for the purpose of excavation or embankment; and also any lands or premises that may be necessary and proper for turnouts, standing places for cars, depots, station houses, or any other structures required in the construction and working of said road. And the said company shall have the right to cut and remove trees and other material that might, by falling, encumber its road bed, though standing or being more than two hundred feet from the line of said road. And in case the owner of such lands or premises and the said company cannot agree as to the value of the premises taken, or to be taken, for the use of said road, the value thereof shall be determined by the appraisal of three disinterested commissioners, who may be appointed, upon application by either party, to any court of record in any of the Territories in which the lands or premises to be taken lie; and said commissioners, in their assessment of damages, shall appraise such premises at what would have

been the value thereof if the road had not been built. And upon return into court of such appraisement, and upon the payment into the same of the estimated value of the premises taken for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purposes aforesaid. And either party feeling aggrieved at said appraisement may, within thirty days after the same has been returned into court, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary and proper in the construction of its road. And said party appealing shall give bonds, with sufficient surety or sureties, for the payment of any cost that may arise upon such appeal; and in case the party appealing does not obtain a verdict, increasing or diminishing, as the case may be, the award of the commissioners, such party shall pay the whole cost incurred by the appellee, as well as his own, and the payment into court, for the use of the owner of said premises taken, of a sum equal to that finally awarded, shall be held to vest in said company the title of said land, and of the right to use and occupy the same for the construction, maintenance, and operation of said road. And in case any of the lands to be taken, as aforesaid, shall be held by any infant, *femme covert*, *non compos*, insane person, or persons residing without the territory within which the lands to be taken lie, or persons subjected to any legal disability, the court may appoint a guardian for any party under any disqualification to appear in proper person, who shall give bond, with sufficient surety or sureties, for the proper and faithful execution of his trust and who may represent in court the person disqualified, as aforesaid, from appearing, when the same proceedings shall be had in reference to the appraisement of the premises to be taken for the use of said company, and with the same effect as has been already described; and the title of the company to the lands taken by virtue of this act shall not be affected or impaired by reason of any failure by any guardian to discharge faithfully his trust. And in case any party shall have a right or claim to any land for a term of years, or any interest therein, in possession, reversion, or remainder, the value of any such estate, less than a fee-simple, shall be estimated and determined in the manner hereinbefore set forth. And in case it shall be necessary for the company to enter upon any lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purposes of said railroad, and may institute proceedings, in manner described, for the purpose of ascertaining the value of, and acquiring title to, the same; but the judge of the court hearing said suit shall determine the kind of notice to be served on such owner or owners, and he may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claims to damages against said company shall be barred.

**§ 8. Limitation of Time for Construction.**—SEC. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to, and accepted by, said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the president, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the whole road by the fourth day of July, Anno Domini eighteen hundred and seventy-six.

**§ 9. Power of Congress in Case of Breach of Conditions.**—SEC. 9. *And be it further enacted*, That the United States make the several con-

ditioned grants herein, and that the said Northern Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then, in such case, at any time hereafter, the United States, by its congress, may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

§ 10. **Power to Mortgage, etc.**—SEC. 10. *And be it further enacted,* That all people of the United States shall have the right to subscribe to the stock of the Northern Pacific Railroad Company until the whole capital named in this act of incorporation is taken up, by complying with the terms of subscription; and no mortgage or construction bonds shall ever be issued by said company on said road, or mortgage or lien made in any way except by the consent of the congress of the United States.

\* \* \* \* \*

§ 11. **Acceptance to be Served by Company.**—SEC. 12. *And be it further enacted,* That the acceptance of the terms, conditions and impositions of this act by the said Northern Pacific Railroad Company shall be signified in writing under the corporate seal of said company, duly executed pursuant to the directions of its board of directors, first had and obtained, which acceptance shall be made within two years after the passage of this act, and not afterwards, and shall be served on the president of the United States.

\* \* \* \* \*

§ 12. **Officers.**—SEC. 14. *And be it further enacted,* That the directors chosen in pursuance of the first section of this act shall, so soon as may be after their election, elect from their own number a president and vice president; and said board of directors shall, from time to time, and so soon as may be after their election, choose a treasurer and secretary, who shall hold their offices at the will and pleasure of the board of directors. \* \* \*

§ 13. **Powers and Duties of Officers.**—SEC. 15. *And be it further enacted,* That the president, vice president and directors shall hold their offices for the period indicated in the by-laws of said company, not exceeding three years, respectively, and until others are chosen in their place and qualified. In case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, the corporation shall not for that excuse be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors. The directors, of whom seven, including the president, shall be a quorum for the transaction of business, shall have full power to make and prescribe such by-laws, rules and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, estate and effects of the company, the transfer of shares, the duties and conduct of their officers and servants touching the election and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors may have full power to fill any vacancy or vacancies that may occur from any cause or causes from time to time in their said board. And the said board of directors shall have power to appoint such engineers, agents and subordinates as may from time to time be necessary to carry into effect the object of the company, and to do all acts and things touching the location and construction of said road.

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§ 14. **May Accept Donations, Grants, etc.**—SEC. 17. *And be it further enacted,* That the said company is authorized to accept to its own use any grant, donation, loan, power, franchise, aid, or assistance which may be granted to, or conferred upon, said company by the congress of the United



States, by the legislature of any State, or by any corporation, person, or persons, and said corporation is authorized to hold and enjoy any such grant, donation, loan, power, franchise, aid, or assistance, to its own use for the purpose aforesaid.

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§ 15. **Limitation for Organization.**—SEC. 19. *And be it further enacted,* That unless said Northern Pacific Railroad Company shall obtain *bona fide* subscriptions to the stock of said company to the amount of two millions of dollars, with ten per centum paid within two years after the passage and approval of this act, it shall be null and void.

§ 16. **Right of Repeal, etc.**—SEC. 20. *And be it further enacted,* That the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, congress may, at any time, having due regard for the rights of said Northern Pacific Railroad Company, add to, alter, amend, or repeal this act.

**No. 1270.—RESOLUTION EXTENDING THE TIME FOR THE COMPLETION OF THE UNION PACIFIC RAILWAY, EASTERN DIVISION.<sup>1</sup>**

\* \* \* \* \*

§ 1. SEC. 2. *And be it further resolved,* That the time for commencing and completing the Northern Pacific Railroad, and all its several sections, is extended for the term of two years.

<sup>1</sup> Approved May 7, 1866. (See 14 U. S. Stat., p. 355.)

**No. 1271.—JOINT RESOLUTION EXTENDING THE TIME FOR THE COMPLETION OF THE NORTHERN PACIFIC RAILROAD.<sup>1</sup>**

§ 1. *Be it resolved, etc.,* That section eight of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast,"<sup>2</sup> is hereby so amended as to read as follows: That each and every grant, right, and privilege herein are so made and given to, and accepted by said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from and after the second day of July, eighteen hundred and sixty-eight, and shall complete not less than one hundred miles per year after the second year thereafter, and shall construct, equip, furnish and complete the whole road by the fourth day of July, Anno Domini, eighteen hundred and seventy-seven.

<sup>1</sup> Approved July 1, 1868. (See 15 U. S. Stat., p. 255.)

<sup>2</sup> See No. 1269, § 8, *supra*.

**No. 1272.—JOINT RESOLUTION GRANTING RIGHT-OF-WAY FOR THE CONSTRUCTION OF A RAILROAD FROM A POINT AT OR NEAR PORTLAND, OREGON, TO A POINT WEST OF THE CASCADE MOUNTAINS, IN WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. *Be it resolved, etc.,* That the Northern Pacific Railroad Company be and hereby is authorized to extend its branch line from a point at or near Portland, Oregon, to some suitable point on Puget Sound, to be determined by said company, and also to connect the same with its main

<sup>1</sup> Approved April 10, 1869. (See 16 U. S. Stat., p. 57.)

line west of the Cascade mountains, in the Territory of Washington; said extension being subject to all the conditions, and provisions, and said company in respect thereto being entitled to all the rights and privileges conferred by the act incorporating said company, and all acts additional to and amendatory thereof: *Provided*, That said company shall not be entitled to any subsidy in money, bonds, or additional lands of the United States in respect to said extension of its branch line as aforesaid, except such lands as may be included in the right-of-way on the line of such extension as it may be located: *And provided further*, That at least twenty-five miles of said extension shall be constructed before the second day of July, eighteen hundred and seventy-one, and forty miles per year thereafter until the whole of said extension shall be completed.

**No. 1273.—A RESOLUTION AUTHORIZING THE NORTHERN PACIFIC RAILROAD COMPANY TO ISSUE ITS BONDS FOR THE CONSTRUCTION OF ITS ROAD AND TO SECURE THE SAME BY MORTGAGE, AND FOR OTHER PURPOSES.<sup>1</sup>**

**§ 1. When Mortgage to be Filed—Franchise, etc.—Pre-emption Rights.**—*Resolved, etc.*, That the Northern Pacific Railroad Company be and hereby is authorized to issue its bonds to aid in the construction and equipment of its road, and to secure the same by mortgage on its property and rights of property of all kinds and descriptions, real, personal and mixed, including its franchise as a corporation; and, as proof and notice of its legal execution and effectual delivery, said mortgage shall be filed and recorded in the office of the secretary of the interior; and also to locate and construct under the provisions and with the privileges, grants and duties provided for in its act of incorporation, its main road to some point on Puget Sound, *via* the valley of the Columbia river, with the right to locate and construct its branch from some convenient point on its main trunk line across the Cascade mountains to Puget Sound; and in the event of there not being in any State or Territory in which said main line or branch may be located, at the time of the final location thereof, the amount of lands per mile granted by congress to said company, within the limits prescribed by its charter, then said company shall be entitled, under the directions of the secretary of the interior, to receive so many sections of land belonging to the United States, and designated by odd numbers, in such State or Territory, within ten miles on each side of said road, beyond the limits prescribed in said charter, as will make up such deficiency, on said main line or branch, except mineral and other lands as excepted in the charter of said company of eighteen hundred and sixty-four, to the amount of the lands that have been granted, sold, reserved, occupied by homestead settlers, preëmpted, or otherwise disposed of subsequent to the passage of the act of July two, eighteen hundred and sixty-four. And that twenty-five miles of said main line between its western terminus and the city of Portland, in the State of Oregon, shall be completed by the first day of January, Anno Domini eighteen hundred and seventy-two, and forty miles of the remaining portion thereof each year thereafter, until the whole shall be completed between said points: *Provided*, That all lands hereby granted to said company which shall not be sold or disposed of or remain subject to the mortgage by this act authorized, at the expiration of five years after the completion of the entire road, shall be subject to settlement and preëmption like other lands, at a price to be paid to said company not exceeding two dollars and fifty cents per acre; and if the mortgage hereby authorized shall at any time be enforced by foreclosure or other legal proceeding, or the mortgaged lands hereby granted, or any of them, be sold by the trustees to whom such

<sup>1</sup> Approved May 31, 1870. (See 16 U. S. Stat., p. 378.)

mortgage may be executed, either at its maturity or for any failure or default of said company under the terms thereof, such lands shall be sold at public sale, at places within the States and Territories in which they shall be situate, after not less than sixty days' previous notice, in single sections or subdivisions thereof to the highest and best bidder: *Provided further*, That in the construction of the said railroad, American iron or steel only shall be used, the same to be manufactured from American ores exclusively.

§ 2. **Right of Repeal, etc.**—SEC. 2. *And be it further resolved*, That congress may at any time alter or amend this joint resolution, having due regards to the rights of said company, and any other parties.

### CHAPTER III.—PUYALLUP VALLEY RAILROAD COMPANY.

**No. 1274.**—AN ACT TO GRANT TO THE PUYALLUP VALLEY RAILWAY COMPANY A RIGHT-OF-WAY THROUGH THE PUYALLUP INDIAN RESERVATION, IN WASHINGTON TERRITORY, AND FOR OTHER PURPOSES.<sup>1</sup>

§ 1. **Construction of Road, etc.**—*Be it enacted, etc.*, That the Puyallup Valley Railway Company, a corporation created under and by virtue of the laws of the Territory of Washington, be and the same is hereby invested and empowered with the right of locating, constructing, owning, equipping, operating, using and maintaining a railway, telegraph and telephone lines through the Puyallup Indian Reservation, or such parts thereof as may be hereinafter designated in this act, said line to begin on the northwestern boundary of the said Indian reservation, near the city of Tacoma, running thence by the most practicable route through said reservation to the southeastern boundary thereof; thence to the town of Sumner, in said Territory of Washington, with the right to construct, use and maintain such tracks, turn outs, sidings and extensions hereinafter mentioned as such company may deem necessary and to their interests to construct along, upon and in connection with the right-of-way hereby granted. Before work is begun the definite line and location of said railway is to be submitted to and approved by the secretary of the interior.

§ 2. **Right-of-Way.**—SEC. 2. That a right-of-way sixty-six feet in width through said Indian reservation, or the designated parts thereof, is hereby granted to the Puyallup Valley Railway Company, and a strip of land one hundred and thirty-three feet in width, with a length of two thousand feet in addition to the right-of-way, is granted for such stations, sidings or junctions as may be established by said railway company for the proper and convenient operating of said railroad, with the right to use such additional ground, where there are heavy cuts or fills, as may be necessary for the proper construction and maintenance of the road bed; but ground taken or used for such purposes shall not exceed fifty feet in width on each side of the right-of-way, or only as much thereof as may be included in such cuts and fills: *Provided*, That no part or parts of land included in these grants shall be used for any other purposes than shall be necessary for the construction, maintenance and convenient operation of said rail-

<sup>1</sup> (See 25 U. S. Stat., p. 350.) Received by the president July 14, 1888. Note by the department of state: "The foregoing act having been presented to the president of the United States for his approval, and not having been returned by him to the house of congress, in which it originated, within the time prescribed by the constitution of the United States, has become a law without his approval."

road, telegraph and telephone lines: *Provided further*, That the consent of the Indians to said right-of-way upon the said Puyallup Indian reservation shall be obtained in such manner as the president of the United States may prescribe, before any right under this act shall accrue to said company: *And provided further*, That the location, construction and operation of said road through said reservation shall be subject to such regulations as the secretary of the interior may provide.

**§ 3. Appropriation of Occupied Lands—Damages.**—SEC. 3. That before said railway shall be constructed through any land, claim, or improvement held by individual occupants, according to any treaties or laws of the United States, compensation shall be made such occupant or claimant for all property to be taken or damage done by reason of the construction of said railway. In case of failure to make satisfactory settlement with any such claimant, the just compensation shall be determined as provided for by the laws of Washington Territory, enacted for the settlement of like controversies in such cases. The amount of damages resulting to the Puyallup tribe of Indians in their tribal capacity, by reason of the construction of said railway through such lands of the reservation as are not occupied in severalty, shall be ascertained and determined in such manner as the secretary of the interior may direct, and to be subject to his final approval: *Provided further*, That no right of any kind shall vest in said railway company in or to any part of the right-of-way herein provided for, until plats thereof, made upon actual survey for the definite location of such railroads, and including the points for station buildings, depots, yards, machine shops, side tracks, turn outs and water stations shall be filed with and approved by the secretary of the interior, which approval shall be made in writing, and be open for the inspection of any party interested therein, and until the compensation aforesaid has been fixed and paid: *Provided*, That the amount of compensation, which may ultimately be awarded or adjudged against said railway company in respect of such last mentioned lands, shall be paid to the secretary of the interior, to be by him expended on behalf of the tribe, for the benefit of their schools, or in such other manner as he shall deem best.

\* \* \* \* \*

**§ 4. Map to be Filed.**—SEC. 5. That said company shall, as soon as the definite route and line of said railroad is located through said reservation, cause a map to be made showing such line and location, a copy of which shall be filed in the office of the secretary of the interior, and a copy shall be also filed in the office of the principal chief or governor of said tribe through which said road may have been located; and after the filing of said map of location no claim for subsequent settlement and improvement upon the right-of-way or additional grounds for depots, stations, sidings, or switches shall be valid as against said railroad company.

\* \* \* \* \*

**§ 5. Judicial Jurisdiction.**—SEC. 7. That the United States courts for the second judicial district of Washington Territory, and such other courts as may be authorized by congress, shall have concurrent jurisdiction, without reference to the amount in controversy, over all cases arising between said railroad company and the tribe, as such, or individual members thereof, through whose territory said railway may be constructed; and the civil jurisdiction of said courts is extended within the limits of the said Puyallup Indian reservation, without distinction as to citizenship of parties interested, so far as it may be necessary to carry out the provisions of this act and give effect to all its enactments.

**§ 6. To Maintain Fences, etc.**—SEC. 8. That said railway company shall construct and maintain continually all fences, road and highway crossings, and necessary bridges over said railway wherever such roads

and highways do now or shall hereafter cross said right-of-way, or may by proper authority be laid out across the same.

§ 7. **Mortgages, etc.—Where to be Recorded — Forfeiture Provision.**—SEC. 9. That all mortgages or conveyances executed and operating on any portion of this railway that may be constructed in the said Puyallup Indian reservation shall be recorded in the department of the interior, and the record thereof shall be evidence and notice of the execution of the same, and shall convey all rights of property of said railroad company therein expressed. That said company shall not sell, assign, transfer, or mortgage this right-of-way for any purpose whatever until said road shall be completed: *Provided*, That the company may mortgage said franchise, together with the rolling stock, for money to construct and complete said road: *And provided further*, That the right granted herein shall be lost and forfeited by said company unless the road is constructed and in running order within two years from the passage of this act, and it shall not be necessary in such case for a forfeiture to be declared by judicial process, or legislative enactment.

§ 8. **Right of Repeal, etc.**—SEC. 10. That congress may, at any time, amend, add to, alter or repeal this act.

#### CHAPTER IV.—WALLA WALLA AND COLUMBIA RIVER RAILROAD COMPANY.

##### **No. 1275.—AN ACT GRANTING THE RIGHT-OF-WAY TO THE WALLA WALLA AND COLUMBIA RIVER RAILROAD COMPANY, AND FOR OTHER PURPOSES.<sup>1</sup>**

§ 1. *Be it enacted, etc.*, That the right-of-way through the public lands be and the same is hereby granted to the Walla Walla and Columbia River Railroad Company, a corporation existing under the laws of the Territory of Washington, and duly incorporated for the purpose of constructing a railroad from said town of Walla Walla to some eligible point on the navigable waters of said Columbia river, in said Territory; said right-of-way hereby granted to said railroad is to the extent of one hundred feet in width on each side of said road where it may pass over the public lands; also all necessary ground, not to exceed five acres at each station, for station buildings, work shops, depots, machine shops, switches, side tracks, turn tables, and water stations.

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<sup>1</sup> Approved March 3, 1869. (See 15 U. S. Stat., p. 325.)

##### **No. 1276.—AN ACT GRANTING THE RIGHT-OF-WAY FOR A RAILROAD AND TELEGRAPH LINE TO THE WALLA WALLA AND COLUMBIA RIVER RAILROAD COMPANY ACROSS FORT WALLA WALLA MILITARY RESERVATION, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Right-of-Way.**—*Be it enacted, etc.*, That the right-of-way, not exceeding one hundred feet in width through the lands of the Fort Walla Walla military reservation in Washington Territory, is hereby granted to the Walla Walla and Columbia River Railroad Company, a corporation organized under the laws of said Territory, for the purpose of construct-

<sup>1</sup> Approved July 3, 1876. (See 19 U. S. Stat., p. 72.)



ing a railroad and telegraph line: *Provided*, That the said right-of-way, and the width and location thereof through said lands, and the regulations for operating said railroad within the limits of the reservation so as to prevent all danger to public property, shall be submitted to and approved by the secretary of war prior to any entry on said lands or the commencement of the construction of said works: *Provided, also*, That whenever said rights-of-way shall cease to be used for the purposes aforesaid, the same shall revert to the United States.

§ 2. **Right of Repeal.**—SEC. 2. That congress reserves the right to alter, amend or repeal this act.

## TITLE II.—DEFECTIVE ACTS VALIDATED.

**No. 1277.**—AN ACT TO VALIDATE AND CURE DEFECTS IN CERTAIN ACTS OF THE LEGISLATIVE ASSEMBLY OF WASHINGTON TERRITORY.<sup>1</sup>

§ 1. **Revenue—Dykes, etc.—Municipal Corporations.**—*Be it enacted, etc.*, That all those certain acts passed by the legislative assembly of the Territory of Washington at its ninth biennial session, commencing Monday, October first, eighteen hundred and eighty-three, and ending November 29th, eighteen hundred and eighty-three, namely: An act to correct errors and supply defects in the Code of Washington.<sup>2</sup> An act amending chapter one hundred and ninety-three of the code, relative to the construction and maintenance of dykes and ditches.<sup>3</sup> \* \* \* An act to legalize certain ordinances and proceedings of the city of Seattle in condemning a strip of land for a public street.<sup>4</sup> \* \* \* Notwithstanding the omission of the enacting clause or the date of the governor's approval the misdating of such approval or other defect, or other irregularity, are hereby validated and confirmed as of November twenty-eighth, eighteen hundred and eighty-three, when they are supposed to have been approved.

\* \* \* \* \*

<sup>1</sup> Approved July 5, 1884. (See 23 U. S. Stat., p. 122.)

<sup>2</sup> See No. 674, *supra*.

<sup>3</sup> See appendix.

<sup>4</sup> See No. 776, *supra*.

## TITLE III.—DONATION CLAIMS.

**No. 1278.—AN ACT TO CREATE THE OFFICE OF SURVEYOR GENERAL OF THE PUBLIC LANDS IN OREGON, AND TO PROVIDE FOR THE SURVEY, AND TO MAKE DONATIONS TO SETTLERS OF THE SAID PUBLIC LANDS.<sup>1</sup>**

§ 1. **Powers and Duties of Surveyor General.**—*Be it enacted, etc.,* That a surveyor general shall be appointed for the Territory of Oregon, who shall have the same authority, perform the same duties respecting the public lands and private land claims in the Territory of Oregon as are vested in and required of the surveyor of lands in the United States northwest of the Ohio, except as hereinafter provided.

\* \* \* \* \*

§ 2. **Manner of Making Surveys.**—**SEC. 3.** *And be it further enacted,* That if, in the opinion of the secretary of the interior, it be preferable, the surveys in said Territory shall be made after what is known as the geodetic method, under such regulations and upon such terms as may be provided by the secretary of the interior or other department having charge of the surveys of the public lands, and that said geodetic surveys shall be followed by topographical surveys, as congress may from time to time authorize and direct; but if the present mode of survey be adhered to, then it shall be the duty of said surveyor to cause a base line and meridian to be surveyed, marked and established, in the usual manner, at or near the mouth of the Willamette river; and he shall also cause to be surveyed in townships and sections in the usual manner and in accordance with the laws of the United States which may be in force, the district of country lying between the summit of the Cascade mountains and the Pacific ocean, and south and north of the Columbia river: *Provided, however,* That none other than township lines shall be run where the land is deemed unfit for cultivation. That no deputy surveyor shall charge for any line except such as may be actually run and marked, nor for any line not necessary to be run; and that the whole cost of surveying shall not exceed the rate of eight dollars per mile, for every mile and part of mile actually surveyed and marked.

§ 3. **Donations to Settlers: Who Entitled to, and How Made.**—**SEC. 4.** *And be it further enacted,* That there shall be and hereby is granted to every white settler or occupant of the public lands, American half-breed Indians included, above the age of eighteen years, being a citizen of the United States or having made a declaration according to law of his intention to become a citizen, or who shall make such declaration on or before the first day of December, eighteen hundred and fifty-one, now residing in said Territory or who shall become a resident thereof on or before the first day of December, eighteen hundred and fifty, and who shall have resided upon and cultivated the same for four consecutive years, and shall otherwise conform to the provisions of this act, the quantity of one-half section, or three hundred and twenty acres of land, if a single man, and if a married man or if he shall become married within one year from the first day of December, eighteen hundred and fifty, the quantity of one section, or six hundred and forty acres, one-half to himself and the other half to his wife to be held by her in her own right; and the surveyor general shall designate the part enuring to the husband and that to the wife, and

<sup>1</sup> Approved Sept. 27, 1850. (See 9 U. S. Stat., p. 496.)

enter the same on the records of his office; and in all cases where such married persons have complied with the provisions of this act so as to entitle them to the grant as above provided, whether under the late provisions of the government of Oregon or since, and either shall have died before patent issues, the survivor and children or heirs of the deceased shall be entitled to the share or interest of the deceased in equal proportions, except where the deceased shall otherwise dispose of it by testament duly and properly executed according to the laws of Oregon: *Provided*, That no alien shall be entitled to a patent to land granted by this act until he shall produce to the surveyor general of Oregon record evidence that his naturalization as a citizen of the United States has been completed; but if any alien having made his declaration of intention to become a citizen of the United States after the passage of this act, shall die before his naturalization shall be completed, the possessory right acquired by him under the provisions of this act shall descend to his heirs-at-law or pass to his devisees to whom, as the case may be, the patent shall issue: *Provided further*, That in all cases provided for in this section the donation shall embrace the land actually occupied and cultivated by the settler thereon: *Provided further*, That all future contracts by any person or persons entitled to the benefit of this act for the sale of the land to which he or they may be entitled under this act before he or they have received a patent therefor, shall be void: *Provided further, however*, That this section shall not be so construed as to allow those claiming rights under the treaty with Great Britain relative to the Oregon Territory to claim both under this grant and the treaty, but merely to secure them the election and confine them to a single grant of land.

§ 4. **Donations to Certain Immigrants.**—SEC. 5. *And be it further enacted*, That to all white male citizens of the United States, or persons who shall have made a declaration of intention to become such, above the age of twenty-one years, emigrating to and settling in said Territory between the first day of December, eighteen hundred and fifty, and the first day of December, eighteen hundred and fifty-three; and to all white male American citizens, not hereinbefore provided for, becoming one and twenty years of age, in said Territory, and settling there between the times last aforesaid, who shall in other respects comply with the foregoing section and the provisions of this law, there shall be and hereby is granted the quantity of one quarter-section, or one hundred and sixty acres of land, if a single man; or if married, or if he shall become married within one year from the time of arriving in said Territory, or within one year after becoming twenty-one years of age, as aforesaid, then the quantity of one half-section, or three hundred and twenty acres, one-half to the husband and the other half to the wife in her own right, to be designated by the surveyor general as aforesaid: *Provided always*, That no person shall ever receive a patent for more than one donation of land in said Territory in his or her own right: *Provided*, That no mineral lands shall be located or granted under the provisions of this act.

§ 5. **Notice of Location to be Given Surveyor General—Record of Claims.**—SEC. 6. *And be it further enacted*, That within three months after the survey has been made, or where the survey has been made before the settlement commenced, then within three months from the commencement of such settlement, each of said settlers shall notify the surveyor general, to be appointed under this act, of the precise tract or tracts claimed by them respectively under this law, and in all cases it shall be in a compact form; and where it is practicable so to do, the land so claimed shall be taken as nearly as practicable by legal subdivisions; but where that cannot be done, it shall be the duty of the said surveyor general to survey and mark each claim with the boundaries as claimed, at the request and expense of the claimant; the charge for the same in such case not to exceed the price paid for surveying the public lands. The surveyor

**general** shall enter a description of such claims in a book to be kept by **him** for that purpose, and note, temporarily, on the township plats, the **tract** or tracts so designated, with the boundaries; and whenever a **conflict** of boundaries shall arise prior to issuing the patent, the same shall **be** determined by the surveyor general: *Provided*, That after the first **December** next, all claims shall be bounded by lines running east and **west**, and north and south: *And provided further*, That after the survey **is** made, all claims shall be made in conformity to the same, and in **compact** form.

**§ 6. Proof of Residence and Cultivation—Patents.—SEC. 7.** *And be it further enacted*, That within twelve months after the surveys have been made, or, where the survey has been made before the settlement, then within twelve months from the time the settlement was commenced, each **person** claiming a donation right under this act shall prove to the satisfaction of the surveyor general, or of such other officer as may be appointed by law for that purpose, that the settlement and cultivation required by this act had been commenced, specifying the time of the commencement; and at any time after the expiration of four years from the date of such settlement, whether made under the laws of the late provisional government or not, shall prove in like manner, by two disinterested witnesses, the fact of continued residence and cultivation required by the fourth section of this act; and upon such proof being made, the surveyor general, or other officer appointed by law for that purpose, shall issue certificates under such rules and regulations as may be prescribed by the commissioner of the general land office, setting forth the facts in the case and specifying the land to which the parties are entitled. And the said surveyor general shall return the proof so taken to the office of the commissioner of the general land office, and if the said commissioner shall find no valid objection thereto, patents shall issue for the land according to the certificates aforesaid upon the surrender thereof.

**§ 7. If Settler Dies Before Proof, Rights Descend to Heirs.—SEC. 8.** *And be it further enacted*, That upon the death of any settler before the expiration of the four years' continued possession required by this act, all the rights of the deceased under this act shall descend to the heirs-at-law of such settler, including the widow, where one is left, in equal parts; and proof of compliance with the conditions of this act up to the time of the death of such settler shall be sufficient to entitle them to the patent.

**§ 8. School Lands: Claims on, After Survey, Invalid.—SEC. 9.** *And be it further enacted*, That no claim to a donation right, under the provisions of this act, upon sections sixteen or thirty-six shall be valid or allowed if the residence and cultivation upon which the same is founded shall have commenced after the survey of the same; nor shall such claim attach to any tract or parcel of land selected for a military post, or within one mile thereof, or to any other land reserved for governmental purposes, unless the residence and cultivation thereof shall have commenced previous to the selection or reservation of the same for such purposes.

**§ 9. Grant of Lands for University.—SEC. 10.** *And be it further enacted*, That there be and hereby is granted to the Territory of Oregon the quantity of two townships of land in said Territory, West of the Cascade mountains, and to be selected in legal subdivisions after the same has been surveyed, by the legislative assembly of said Territory, in such manner as it may deem proper, one to be located north and the other south of the Columbia river, to aid in the establishment of a university in the Territory of Oregon, in such manner as the said legislative assembly may direct, the selection to be approved by the surveyor general.

**§ 10. Rights Under Treaties not Affected.—SEC. 11.** *And be it further enacted*, \* \* \* That nothing in this act contained shall be so construed or executed, as in any way to destroy or affect any rights to

land in said Territory, holden or claimed under the provisions of the treaty or treaties existing between this country and Great Britain.

§ 11. **Claims to be for Own Use and Cultivation.**—SEC. 12. *And be it further enacted,* That all persons claiming land under any of the provisions of this act, by virtue of settlement and cultivation commenced subsequent to the first of December, in the year eighteen hundred and fifty, shall first make affidavit before the surveyor general, who is hereby authorized to administer all such oaths or affirmations, or before some other competent officer, that the land claimed by them is for their own use and cultivation; that they are not acting directly or indirectly as agent for, or in the employment of others, in making such claims; and that they have made no sale or transfer, or any arrangement or agreement for any sale, transfer, or alienation of the same, or by which the said land shall inure to the benefit of any other person. And all affidavits required by this act shall be entered of record, by the surveyor general, in a book to be kept by him for that purpose. \* \* \*

§ 12. **Duties of Surveyor General.**—SEC. 13. *And be it further enacted,* That all questions arising under this act shall be adjudged by the surveyor general as preliminary to a final decision according to law; and it shall be the duty of the surveyor general, under the direction of the commissioner of the general land office, to cause proper tract books to be opened for the lands in Oregon, and to do and perform all other acts and things necessary and proper to carry out the provisions of this act.

§ 13. **Mineral Lands Excepted—Military Reservations.**—SEC. 14. *And be it further enacted,* That no mineral lands, nor lands reserved for salines, shall be liable to any claim under and by virtue of the provisions of this act; and that such portions of the public lands as may be designated under the authority of the president of the United States for forts, magazines, arsenals, dock yards, and other needful public uses, shall be reserved and excepted from the operation of this act: *Provided,* That if it shall be deemed necessary, in the judgment of the president, to include in any such reservation the improvements of any settler made previous to the passage of this act, it shall in such case be the duty of the secretary of war to cause the value of such improvements to be ascertained, and the amount so ascertained shall be paid to the party entitled thereto, out of any money not otherwise appropriated.

**No. 1279.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH THE TERRITORIAL GOVERNMENT OF OREGON," APPROVED AUGUST FOURTEENTH, EIGHTEEN HUNDRED AND FORTY-EIGHT.<sup>1</sup>**

§ 1. **School Lands.**—*Be it enacted, etc.,* That the legislative assembly of the Territory of Oregon be and hereby are authorized in all cases where the sixteen or thirty-six sections, or any part thereof, shall be taken and occupied under the law making donations of land to actual settlers, or otherwise, to cause the county commissioners of the several counties in said Territory, or of such other officer or officers as they shall direct, to select, in lieu thereof, an equal quantity of any unoccupied land in sections, or fractional sections, as the case may be.

§ 2. **Set Apart.**—SEC. 2. *And be it further enacted,* That when selections are made in pursuance of the provisions of the first section of this act, said lands so selected, and their proceeds, shall be forever inviolably set apart for the benefit of common schools.

<sup>1</sup> Approved Jan. 7, 1853. (See 10 U. S. Stat., p. 150. See also No. 8, *supra*.)



**No. 1280.**—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CREATE THE OFFICE OF SURVEYOR GENERAL OF THE PUBLIC LANDS IN OREGON, AND TO PROVIDE FOR THE SURVEY, AND TO MAKE DONATIONS TO THE SETTLERS OF THE SAID PUBLIC LANDS," APPROVED SEPTEMBER TWENTY-SEVENTH, EIGHTEEN HUNDRED AND FIFTY.<sup>1</sup>

§ 1. **Payment May be Made in Lieu of Settlement, etc.**—*Be it enacted, etc.*, That all persons who have located or may hereafter locate lands in the Territory of Oregon, in accordance with the provisions of an act entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of the said public lands," approved September twenty-seventh, eighteen hundred and fifty,<sup>2</sup> and of which survey shall have been made or may hereafter be had, in lieu of the term of continued occupation after settlement, as provided by said act, shall be permitted, after occupation for two years of the land so claimed, to pay into the hands of the surveyor general of said Territory at the rate of one dollar and twenty-five cents per acre for the lands so claimed, located and surveyed, as aforesaid; and upon the death of any settler before the expiration of the two years' continued possession required by this act, all the rights of the deceased under this act shall descend to the heirs-at-law of such settler, including the widow, where one is left, in equal parts; and proof of compliance with the conditions of this act, up to the time of the death of such settler, shall be sufficient to entitle them to the patent.

§ 2. **Patents to Issue.**—SEC. 2. *And be it further enacted*, That upon the payment of money for lands as aforesaid to the said surveyor general, he shall issue his certificate of such payment, together with an accurate copy of the survey of the land so located and purchased, to the purchaser thereof, and upon the filing of which said certificate and copy of survey in the office of the commissioner of the general land office, a patent shall issue therefor as in other cases.

\* \* \* \* \*

§ 3. **Act of 1850 Extended.**—SEC. 5. *And be it further enacted*, That the provisions of the act to which this is an amendment be and the same are hereby extended and continued in force until the first day of December, eighteen hundred and fifty-five.

§ 4. **Notice—How Claim May be Debarred.**—SEC. 6. *And be it further enacted*, That every person entitled to the benefit of the fourth section of the act of which this amendatory, who was resident in said Territory on or prior to the first of December, eighteen hundred and fifty, shall be and hereby is required to file with the surveyor general of said Territory, in advance of the time when the public surveys shall be extended over the particular land claimed by him, where those surveys shall not have been made previous to the date of this act, a notice in writing, setting forth his claim to the benefits of said section and citing all required particulars in reference to such settlement claim; and all persons failing to give such notice on or prior to the first of December, eighteen hundred and fifty-three, shall be thereafter debarred from ever receiving any benefit under said fourth section. And all persons who, on the first December, eighteen hundred and fifty-three, shall have settled on surveyed lands in said Territory, in virtue of the provisions of the fifth section of the act of which this is amendatory, who shall fail to give notice in writing of such settlement, specifying the particulars thereof to the surveyor general of said Territory, on or prior to the first of April,

<sup>1</sup> Approved Feb. 14, 1853. (Sec 10 U. S. Stat., p. 158.) All conflicting acts and parts repealed.

<sup>2</sup> See No. 1278, *supra*.

eighteen hundred and fifty-five, shall be thereafter debarred from ever receiving the benefits of said fifth section.

**§ 5. Sale of Lands West of Cascades Authorized.**—SEC. 7. *And be it further enacted*, That from and after the first of April, eighteen hundred and fifty-five, all public lands within the limits of the townships surveyed or to be surveyed in said Territory, west of the Cascade mountains, which shall not have been claimed under the provisions of the fourth and fifth sections of the act of which this is amendatory, or reserved for public use by law or order of the president, and excepting also mineral lands, shall be subject to public sale and private entry as other public lands of the United States; and so soon as he shall deem expedient, the president of the United States shall, by and with the advice and consent of the senate, appoint a receiver of public moneys for the Territory of Oregon, west of the Cascade mountains, who shall give bond and security in the penalty of fifty thousand dollars for the faithful discharge of his official trust, and whose duties under the laws in relation to the public lands of the United States, in said Territory, shall be the same as those of other like officers of the United States, and who shall be allowed not exceeding five hundred dollars per annum for the safe keeping and accounting for the public moneys by him received, including all charges for office rent and clerk hire; and at such time as the president of the United States shall deem it expedient, he shall appoint by and with the advice and consent of the senate, a register of the land office for the Territory of Oregon, west of the Cascade mountains, who shall enter into bond with sufficient security for the faithful discharge of his official duties as other like officers, and whose duties and authority, under the direction of the secretary of the interior, shall be the same as those imposed by law on other like officers, consistently with the provisions of this act and of the act of which this is amendatory, and whose compensation shall be equal to that allowed to the receiver of public moneys to be appointed under this act; and until such register shall have been appointed and entered upon the discharge of his official duties, the surveyor general of Oregon shall perform all the duties which shall appertain to such office.

**§ 6. Rights of Widows and Heirs, Under Act of 1850.**—SEC. 8. *And be it further enacted*, That each widow now residing in Oregon Territory, and such others as shall locate in said Territory, whose husband, had he lived, would have been entitled to a claim under the provisions of the act to which this is an amendment, shall be entitled under the provisions and requirements of said act, to the same quantity of land that she would have been but for the death of her husband; and that in case of the death of the widow prior to the expiration of the four years' continued possession required by said act to which this is an amendment, all the rights of the deceased shall inure unto and be vested in the heirs-at-law of such widow.

**§ 7. Extent of Military Reserves.**—SEC. 9. *And be it further enacted*, That all reservations heretofore, as well as hereafter, made in pursuance of the fourteenth section of the act, to which this is an amendment, shall, for magazines, arsenals, dock yards, and other needful public uses, except for forts, be limited to an amount not exceeding twenty acres for each and every of said objects at any one point or place, and for forts to an amount not exceeding six hundred and forty acres at any one point or place: *Provided*, That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvement of any settler made previous to such reservation, it shall, in such case, be the duty of the secretary of war to cause the value of such improvements to be ascertained; and the amount so ascertained shall be paid to the party entitled thereto, out of any money in the treasury not otherwise appropriated.

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**No. 1281.**—AN ACT TO AMEND THE ACT APPROVED SEPTEMBER TWENTY-SEVEN, EIGHTEEN HUNDRED AND FIFTY, TO CREATE THE OFFICE OF SURVEYOR GENERAL OF THE PUBLIC LANDS IN OREGON, ETC., AND ALSO THE ACT AMENDATORY THEREOF, APPROVED FEBRUARY NINETEEN (FOURTEENTH), EIGHTEEN HUNDRED AND FIFTY-THREE.<sup>1</sup>

§ 1. **Townsites—Period of Occupancy.**—*Be it enacted, etc.,* That the donations hereafter to be surveyed in Oregon and Washington Territories, claimed under any of the provisions of the act to create the office of surveyor general of the public lands in Oregon, etc., approved September twenty-seven, eighteen hundred and fifty,<sup>2</sup> shall in no case include a townsite, or lands settled upon for purposes of business or trade, and not for agriculture; and all legal subdivisions included in whole or in part in such townsites, or settled upon for purposes of business or trade, and not for agriculture, shall be subject to the operations of the act of May twenty-three, eighteen hundred and forty-four, "for the relief of citizens of towns upon lands of the United States, under certain circumstances," whether such settlements were made before or after the surveys: *Provided, however,* That the period of two years' occupancy, required of settlers before they can purchase the lands claimed by them under the provisions of the first section of the act of February fourteen, eighteen hundred and fifty-three, above mentioned, shall be, and the same is hereby, reduced to one year.

§ 2. **Certain Contracts for Sale, Made Before Patents Issued, Valid.**—**SEC. 2.** *And be it further enacted,* That the proviso to the fourth section of the act of twenty-seventh September, eighteen hundred and fifty, above mentioned, by which all contracts for the sale of lands claimed under that law, before the issue of the patents therefor, are declared void, shall be and the same is hereby repealed: *Provided,* That no sale shall be deemed valid unless the vendor shall have resided four years upon the land.

§ 3. **Pre-emption Laws Extended.**—**SEC. 3.** *And be it further enacted,* That the pre-emption privilege granted by the act of fourth September, eighteen hundred and forty-one, shall be and the same is hereby extended to the lands in Oregon and Washington Territories, whether surveyed or unsurveyed, not rightfully claimed, entered, or reserved under the provisions of this act, or the acts of which it is amendatory, not excluded by the terms of the said act of eighteen hundred and forty-one, with the exception of unsurveyed lands as above mentioned; and all settlers on unsurveyed lands in said Territories shall give notice to the surveyor general, or other duly authorized officer, of the particular tract claimed under this section, within six months after the survey of such lands is made and returned. And all persons claiming donations under this act, or the acts of which it is amendatory, shall in like manner give notice to the surveyor general, or other duly authorized officer, of the particular lands claimed as such donations within thirty days after being requested to do so by such officer; and failing such notice in either case, the claimant or claimants shall forfeit all right and claim thereto: *Provided, however,* That the time limited by the sixth section of the act of eighteen hundred and fifty-three, in which claimants under the act of eighteen hundred and fifty are required to give notice of their claims, shall be and the same is hereby extended to the first of December, eighteen hundred fifty-five, except in cases where the surveyor general shall request them so to do, as above provided.

§ 4. **Grant of University Lands.**—**SEC. 4.** *And be it further enacted,* That, in lieu of the two townships of land granted to the Territory of Or-

<sup>1</sup> Approved July 17, 1854. (See 10 U. S. Stat., p. 305.)

<sup>2</sup> See No. 1278, *supra*.

regon by the tenth section of the act of eighteen hundred and fifty, for universities, there shall be reserved to each of the Territories of Washington and Oregon two townships of land of thirty-six sections each, to be selected in legal subdivisions, for university purposes, under the direction of the legislatures of said Territories, respectively.

**§ 5. Rights of Orphans.**—SEC. 5. *And be it further enacted,* That in any case where orphans have been or may be left in either of the said Territories, whose parents or either of them if living would have been entitled to a donation under this act, or either of those of which it is amendatory, said orphans shall be entitled to a quarter-section of land on due proof being made to the satisfaction of the surveyor general, subject to the decision of the secretary of the interior. Said land to be set off to them by the surveyor general in good agricultural land, not reserved or otherwise appropriated under any law of congress; and, in case of the death of either or any of said orphans after their lands shall have been designated by the surveyor general, the right or rights of the deceased shall vest in the survivor or survivors.

**§ 6. Scope of this Act.**—SEC. 6. *And be it further enacted,* That all the provisions of this act, and the acts of which it is amendatory, shall be extended to all the lands in Oregon and Washington Territories; and for the purpose of carrying said acts into effect in said Territories, the president shall be and he is hereby authorized to appoint a register and receiver for each of said Territories, whose powers, duties, obligations and responsibilities shall be the same as are now prescribed by law for other land officers and for the surveyor general of Oregon, so far as they apply to such officers. \* \* \*

**§ 7. Surveyor General for Washington—Duties.**—SEC. 7. *And be it further enacted,* That the Territory of Washington shall be erected into a separate surveying district, and the president of the United States is hereby authorized to appoint a surveyor general for the same, who shall hold his office at such place as the president may direct, and the location thereof may be changed from time to time, if, in the judgment of the president, the public interest should require it, and the powers, duties, obligations, responsibilities and emoluments of the said surveyor general shall be the same as are now prescribed by law for the surveyor general of Oregon.

**No. 1282.—AN ACT CONFIRMING A LAND CLAIM TO ELIJAH WHITE, OF THE TERRITORY OF WASHINGTON.<sup>1</sup>**

**§ 1.** *Be it enacted, etc.,* That the claim of Doctor Elijah White to six hundred and forty acres of land on Baker's Bay, near Cape Disappointment, formerly in Oregon, now in Washington Territory, under the act of congress approved September twenty-seven, eighteen hundred and fifty,<sup>2</sup> creating the office of surveyor general, and making donations in Oregon, shall not suffer any prejudice by reason of his absence from his settlement, as set forth in his petition; but the said claim, if in other respects within the provisions of the said act of September twenty-seven, eighteen hundred and fifty, shall be confirmed by the surveyor general to the said Elijah White and his assignees, but not to interfere with any reservation that may be needed by the United States for lighthouse or other public uses, nor to the prejudice of any valid adverse right, if such exist.

<sup>1</sup> Approved Feb. 10, 1855. (See 10 U. S. Stat., p. 848.)

<sup>2</sup> See No. 1278, *supra*.

**No. 1283.—AN ACT FOR THE RELIEF OF GEORGE BUSH, OF THURSTON COUNTY, WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. *Be it enacted, etc.*, That the claim of George Bush to six hundred and forty acres of land in Thurston county, Washington Territory, in virtue of his early settlement and continued residence and cultivation, as set forth in the memorial passed on the seventeenth March, eighteen hundred and fifty-four, by the legislative assembly of Washington Territory, be and the same is hereby confirmed—the one-half to the said George Bush, and the other half to his wife; and it shall be the duty of the surveyor general of the said Territory of Washington to designate and set apart the quantity of land aforesaid, to embrace the residence and settlement of the said George Bush, according to the lines of the public surveys, and for the claim hereby confirmed, but not in such a manner as to interfere with any reserve or valid adverse right, if any such exist, to any part of the land claimed as aforesaid; and upon the presentation of a certificate from the surveyor general, designating the land which may be officially set apart under this act, a patent shall issue, if the proceedings are found regular by the commissioner of the general land office.

<sup>1</sup> Approved Feb. 10, 1855. (See 10 U. S. Stat., p. 848.)

**No. 1284.—AN ACT FOR EXTENDING THE LAND LAWS EAST OF THE CASCADE MOUNTAINS, IN OREGON AND WASHINGTON TERRITORIES.<sup>1</sup>**

§ 1. *Be it enacted, etc.*, That the existing laws relating to the survey and disposal of the public lands in the Territories of Oregon and Washington, west of the Cascade mountains, be and the same are hereby extended and made applicable also to the lands lying east of said mountains within said Territories.

<sup>1</sup> Approved May 29, 1858. (See 11 U. S. Stat., p. 293.)

**No. 1285.—AN ACT IN RELATION TO UNIVERSITY LANDS IN WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, It is declared in the fourth section of the act of congress approved July seventeenth, eighteen hundred and fifty-four,<sup>2</sup> amendatory of the act approved September twenty-seventh, eighteen hundred and fifty,<sup>3</sup> creating the office of surveyor general of the public lands in Oregon, etc., "that in lieu of the two townships of land granted to the Territory of Oregon by the tenth section of the act of eighteen hundred and fifty, for universities, there shall be reserved to each of the Territories of Washington and Oregon, two townships of land of thirty-six sections each, to be selected in legal subdivisions, for university purposes, under the direction of the legislatures of said Territories, respectively;" and

WHEREAS, It is represented that sales have been made by Territorial authorities of land selected in virtue of the terms of said act of seventeenth July, eighteen hundred and fifty-four, authorizing selections to be "reserved," merely under the conviction that they had the power to dispose of the same as a fee simple grant; therefore,

§ 2. **Sales Heretofore Made Confirmed.**—*Be it enacted, etc.*, That in all cases of sales made to individuals by the Territorial authorities prior to the passage of this act, in which it may be shown to the satisfaction of

<sup>1</sup> Approved March 11, 1864. (See 13 U. S. Stat., p. 28.)

<sup>2</sup> See No. 1280, *supra*.

<sup>3</sup> See No. 1278, *supra*.



the secretary of the interior that such sales were *bona fide* and of the class hereinbefore mentioned, and that the tracts so sold are selections in all other respects regular and proper, it shall and may be lawful for the said secretary to approve such selection as a grant in fee simple, and a transcript, certified under the seal of the general land office by the commissioner thereof, of such approval, shall vest the title in the Territory and in its *bona fide* vendees.

**No. 1286.—AN ACT IN REFERENCE TO DONATION CLAIMS IN OREGON AND WASHINGTON.<sup>1</sup>**

**§ 1. Subdivision of Claims—Patents.**—*Be it enacted, etc.* That whenever it shall appear that two donation settlers in the State of Oregon or Washington Territory shall hold their conterminous improvements in such a manner as may require a half quarter section to be divided into two equal parts by a line north and south or east and west, it shall and may be lawful for the commissioner of the general land office to issue patents recognizing for each claimant such subdivisions; this enactment to include cases existing at the date of this act, where the claim may be proved and established according to law.

<sup>1</sup>Approved April 29, 1861. (See 13 U. S. Stat., p. 62.)

**No. 1287.—AN ACT TO AMEND THE ACT OF CONGRESS MAKING DONATIONS TO THE SETTLERS ON THE PUBLIC LANDS IN OREGON, APPROVED SEPTEMBER TWENTY-SEVEN, EIGHTEEN HUNDRED AND FIFTY, AND THE ACTS AMENDATORY THERETO.<sup>1</sup>**

**§ 1. Failure to Give Required Notice Shall Not Affect Claim.**—*Be it enacted, etc.* That in all cases under the act of congress, approved September twenty-seventh, eighteen hundred and fifty, entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands," and the several acts amendatory and supplemental thereto, in which the actual settlement may be shown to be *bona fide*, and the claim in all respects to be fully within the requirements of existing laws, except as to the failure of the party to file notice within the time fixed by statute, such failure shall not work forfeiture when no adverse rights intervene before the filing of the required notification by the claimant.

<sup>1</sup>Approved June 25, 1861. (See 13 U. S. Stat., p. 184.)

**No. 1288.—AN ACT TO EXTEND THE BENEFITS OF THE DONATION LAW OF SEPTEMBER TWENTY-SEVEN, EIGHTEEN HUNDRED AND FIFTY, TO CERTAIN PERSONS.<sup>1</sup>**

**§ 1. Rights of Settlers on Puget Sound Agricultural Company's Lands.**—*Be it enacted, etc.* That all persons who, at the time of settlement, possessed the qualifications prescribed in the fourth and fifth sections of "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands," approved September twenty-seven, eighteen hundred and fifty, and who made *bona fide* settlement upon the lands claimed by the Puget Sound Agricultural Company, in Washington Territory, within the time limited for settlement by said act and the amendments thereto, shall be and are hereby declared to be entitled to all the privileges and benefits of said act and amendments.

**§ 2. Rights Extended to Heirs, etc.**—**SEC. 2.** That the rights and privileges of heirs and assigns under the said donation law, and the amendments thereto, shall be and are hereby extended to the heirs and assigns of the settlers named in the first section of this act.

<sup>1</sup>Approved March 3, 1871. (See 16 U. S. Stat., p. 583.)

**No. 1289.**—AN ACT FOR THE RELIEF OF CERTAIN CLAIMANTS UNDER THE DONATION LAND LAW OF OREGON, APPROVED SEPTEMBER TWENTY-SEVENTH, EIGHTEEN HUNDRED AND FIFTY.<sup>1</sup>

§ 1. **Certain Settlements on Military Reserves Validated.**—*Be it enacted, etc.,* That the claims of such persons who were duly qualified thereto, and made *bona fide* settlements upon lands in the State of Oregon and Washington Territory, under the provisions of the act of congress, approved September twenty-seventh, eighteen hundred and fifty, entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands," and the legislation supplemental thereto, which have been included, in whole or in part, within the limits of any reservation made by the United States for military purposes subsequent to the date of such settlement and prior to the completion of the period of residence and cultivation required by said act, which reservation has been, or may hereafter be, declared abandoned by the secretary of war as no longer necessary to the United States for military or other purposes, shall be adjudicated and patented the same as other donation claims arising under said act and supplemental legislation, as though such reservation had never been made: *Provided, however,* That no claim of any settler coming within the purview of this act shall be validated or confirmed the value of whose improvements, at the time such reservation was made by the United States, has been ascertained and paid for by the secretary of war, as required by the aforesaid act of September twenty-seventh, eighteen hundred and fifty, and the legislation supplemental thereto.

<sup>1</sup>Approved Feb. 28, 1877. (See 19 U. S. Stat., p. 264.)

**No. 1290.**—AN ACT TO PROVIDE FOR THE ISSUE OF PATENTS TO CERTAIN PERSONS FOR DONATION CLAIMS UNDER THE ACT APPROVED SEPTEMBER TWENTY-SEVENTH, EIGHTEEN HUNDRED AND FIFTY, COMMONLY KNOWN AS THE DONATION LAW.<sup>1</sup>

§ 1. *Be it enacted, etc.,* That in all cases where widows or single women, in good faith, settled upon the public lands in the Territories of Oregon and Washington, claiming donation rights under the provisions of an act of congress entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey and to make donations to settlers of the said public lands," approved September twenty-seventh, eighteen hundred and fifty, or of the acts amendatory thereof, or supplementary thereof, or either of them, and filed the notifications and made the final proof of residence and cultivation required by said acts or either of them before the surveyor general of the Territory or before the register and receiver of the proper local land office, and received from such surveyor general or from the register and receiver of the local land office certificates in due form for such donation claim, and they or their heirs or assigns have since occupied and improved such claims, and there are no adverse claims thereto, and in all cases where, upon proof satisfactory to such surveyor general or register and receiver as the case may be, donation claims under the provisions of said acts or either of them were set off to orphans by the surveyor general of the Territory or the register and receiver of the proper local land office, and certificates were issued for such claims, and the claimants, their heirs and assigns have since occupied and improved such claims and there are no adverse claims thereto, the title of such donation claimants, their heirs or assigns, to such claims is hereby confirmed and patents shall be issued for such claims in conformity with such certificates.

<sup>1</sup>Approved Aug. 6, 1888. (See 25 U. S. Stat., p. 359.)

## TITLE IV.—HUDSON BAY COMPANY.

**No. 1291.—AN ACT TO ASCERTAIN THE POSSESSORY RIGHTS OF THE HUDSON'S BAY COMPANY AND OTHER BRITISH SUBJECTS WITHIN THE LIMITS WHICH WERE THE SUBJECT OF THE AWARD OF HIS MAJESTY THE EMPEROR OF GERMANY UNDER THE TREATY OF WASHINGTON OF MAY EIGHT, EIGHTEEN HUNDRED AND SEVENTY-ONE AND FOR OTHER PURPOSES.<sup>1</sup>**

**§ 1. Preamble.**—WHEREAS, It was stipulated by article one, of the treaty concluded at Washington on the fifteenth day of June, eighteen hundred and forty-six,<sup>2</sup> between the United States and Great Britain, that the line of boundary between the Territories of the United States and her Britannic majesty, from the point on the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of said channel and of Fuca Straits to the Pacific Ocean;" and

WHEREAS, By article three<sup>3</sup> of the treaty aforesaid, it was stipulated that "in the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be in the occupation of land or other property lawfully acquired within the said territory, shall be respected;" and

WHEREAS, By article thirty-four of the treaty concluded at Washington on the eighth day of May, eighteen hundred and seventy-one,<sup>4</sup> the question of where "the boundary which runs southerly through the middle of the channel aforesaid" should be located was submitted to his majesty the emperor of Germany, whose decision was to be final and without appeal; and

WHEREAS, By the award of his majesty the emperor of Germany, of October twenty-first, eighteen hundred and seventy-two,<sup>5</sup> said boundary was established, and it now devolves upon the United States to discharge its treaty obligations: therefore,

**§ 2. Commissioner to be Appointed—Duties.**—*Be it enacted, etc.,* That a commissioner be appointed by the president of the United States to make and report to the secretary of the interior a list of all British subjects who, on the fifteenth day of June, eighteen hundred and forty-six, were in the occupation of land, lawfully acquired, within the limits which were the subject of the award of his majesty the emperor of Germany, together with a description of the land actually occupied by each at said date; and said commissioner shall proceed to the vicinity of the land in question, and there receive proof of the occupancy of such land and of the mode by which such occupancy was acquired, after first giving reasonable notice as to the said matters to be so reported by him. Such proof shall consist of oral testimony, under oath, and such documentary proofs as the said occupants may present. The testimony of all witnesses shall

<sup>1</sup> Approved June 20, 1874. (See 18 U. S. Stat., p. 129.)

<sup>2</sup> See No. 3, § 1, *supra*.

<sup>3</sup> See *ibid*, § 3.

<sup>4</sup> See No. 1, § 1, *supra*.

<sup>5</sup> See No. 5, *supra*.

be reduced to writing, and all documentary proof offered by the parties and received by the commissioner shall be attached to the deposition of the party offering such proofs, which testimony and proofs shall be submitted by said commissioner with his report, and such report shall be subject to review by the secretary of the interior, whose action thereon shall be final. For the purposes of this act, the said commissioner shall have authority to subpoena witnesses and to administer oaths and take testimony.

\* \* \* \* \*

**§ 3. Rights of British Subjects.**—SEC. 3. That all British subjects whose claims shall be approved by the secretary, as provided in section one of this act, shall be allowed to purchase from the United States the land so designated at any time within one year from such approval, at the ordinary minimum price per acre where the lands are situated outside railroad limits, and at double minimum price where the lands are within railroad limits.

**§ 4. Forfeiture of Rights.**—SEC. 4. That such entries shall be according to legal subdivisions, so as to include the improvements of such occupants; and where two or more parties shall have improvements on the same smallest legal subdivision, they may make a joint entry thereof: *Provided*, That in case entry and payment are not made within one year from the date of such approval by the secretary of the interior, then all possessory rights named in article three of the treaty of June fifteenth, eighteen hundred and forty-six, shall be considered forfeited, and the lands shall thereafter be deemed and treated as a part of the public domain, to be disposed of as other lands.

**§ 5. Regulations.**—SEC. 5. That it shall be the duty of the secretary of the interior to make all needful regulations to give effect to the provisions of this act.

## TITLE V.—INDIAN RESERVATIONS.

### CHAPTER I.—CHEHALIS RESERVE.

#### No. 1292.—EXECUTIVE ORDER.<sup>1</sup>

**§ 1. Boundaries.**—Boundaries of the Chehalis Indian Reservation, as compiled from the field notes of the public surveys in the office of the surveyor general of Washington Territory, beginning at the post corner to sections 1 and 2, 35 and 36, on the township line between townships Nos. 15 and 16 north, of range 4 west of the Willamette meridian, being the northeast corner of the reservation; thence west along the township line 240 chains to the post corner to sections 4, 5, 32 and 33; thence north on line between sections 32 and 33, 26.64 chains, to the southeast corner of James H. Roundtree's donation claim; thence west along the south boundary of said claim 71.50 chains to its southwest corner; thence north on west boundary of the claim 13.10 chains; thence west 8.50 chains to the quarter section post on line of sections 31 and 32; thence north along

<sup>1</sup> The field notes of the boundaries described in this order are on file in the office of the surveyor general. On July 8, 1861, the secretary of the interior, by letter of that date, to the commissioner of Indian affairs, approved the suggestions of the said commissioner that the boundaries be established as herein set forth.

said section line 40.00 chains to the post corner to sections 29, 30, 31 and 32; thence west on line between sections 30 and 31, 25 and 36, 101.24 chains to the Chehalis river; thence up the Chehalis river with its meanderings, keeping to the south of Sand Island, to the post on the right bank of the river, being the corner to fractional sections 1 and 2; thence north on the line between sections 1 and 2, 73.94 chains to the place of beginning.

**No. 1293.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Restoration.**—It is hereby ordered that the following tract of country in Washington Territory, reserved for the use and occupation of the Chehalis Indians, by order of the secretary of the interior, dated July 8, 1864, be and the same is hereby restored to the public domain:

§ 2. **Boundaries.**—Beginning at the post corner to sections 1 and 2, 35 and 36, on the township line between townships Nos. 15 and 16 north of range 4 west of the Willamette meridian, being the northeast corner of the reservation; thence west along the township line 240 chains to the post corner to sections 4, 5, 32 and 33; thence north on line between sections 32 and 33, 26.64 chains, to the southeast corner of James H. Roundtree's donation claim; thence west along the south boundary of said claim 71.50 chains to its southwest corner; thence north on west boundary of the claim 18.10 chains; thence west 8.50 chains to the quarter-section post on line of sections 31 and 32; thence north along said section line 40.00 chains to the post corner to sections 29, 30, 31 and 32; thence west on line between sections 30 and 31, 25 and 36, 101.24 chains to the Chehalis river; thence up the Chehalis river with its meanderings, keeping to the south of Sand Island, to the post on the right bank of the river, being the corner to fractional sections 1 and 2; thence north on the line between sections 1 and 2, 73.94 chains to the place of beginning.

§ 3. **Part Reserved.**—It is further ordered that the south half of section 3 and the northwest quarter of section 10, township No. 15 north of range 4 west of the Willamette meridian, Washington Territory, be and the same is hereby withdrawn from sale or other disposition, and set apart for the use and occupation of the Chehalis Indians.

<sup>1</sup> Issued by the president October 1, 1886.

**CHAPTER II.—COLUMBIA, OR MOSES, RESERVE.**

**No. 1294.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Boundaries.**—It is hereby ordered that the tract of country in Washington Territory lying within the following described boundaries, viz.: Commencing at the intersection of the forty-mile limits of the branch line of the Northern Pacific Railroad with the Okinakane river; thence up said river to the boundary line between the United States and British Columbia; thence west on said boundary line to the forty-fourth degree of longitude west from Washington; thence south on said degree of longitude to its intersection with the forty-mile limits of the branch line of the Northern Pacific Railroad; and thence with the line of said forty-mile limits to the place of beginning, be and the same is hereby withdrawn from sale and set apart as a reservation for the permanent use and occupancy of Chief Moses and his people, and such other friendly Indians as may elect to settle thereon with his consent and that of the secretary of the interior.

<sup>1</sup> Issued by the president April 19, 1879.



**No. 1295.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Boundaries.**—It is hereby ordered that the tract of country in Washington Territory lying within the following described boundaries, viz.: Commencing at a point where the south boundary line of the reservation created for Chief Moses and his people by executive order dated April 19, 1879, intersects the Okinakane river; thence down said river to its confluence with the Columbia river; thence across and down the east bank of said Columbia river to a point opposite the river forming the outlet to Lake Chelan; thence across said Columbia river and along the south shore of said outlet to Lake Chelan; thence following the meanderings of the south bank of said lake to the mouth of Shehekin creek; thence up and along the south bank of said creek to its source; thence due west to the forty-fourth degree of longitude west from Washington; thence north along said degree to the south boundary of the reservation created by executive order of April 19, 1879; thence along the south boundary of said reservation to the place of beginning, be and the same is hereby withdrawn from sale and settlement and set apart for the permanent use and occupancy of Chief Moses and his people and such other friendly Indians as may elect to settle thereon with his consent and that of the secretary of the interior, as an addition to the reservation set apart for said Chief Moses and his people by executive order dated April 19, 1879.

<sup>1</sup>Issued by the president March 6, 1880.

**No. 1296.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Boundaries.**—It is hereby ordered that the tract of country in Washington Territory lying within the following described boundaries, viz.: Commencing at the intersection of the forty-fourth degree of longitude west from Washington with the boundary line between the United States and British Columbia; thence due south 15 miles; thence due east to the Okinakane river; thence up said river to the boundary line between the United States and British Columbia; thence west along said boundary line to the place of beginning, being a portion of the country set apart for the use of Chief Moses and his people by executive orders of April 19, 1879, and March 6, 1880, be and the same is hereby restored to the public domain.

<sup>1</sup>Issued by the president Feb. 23, 1883.

**No. 1297.—AN ACT MAKING APPROPRIATIONS FOR THE CURRENT AND CONTINGENT EXPENSES OF THE INDIAN DEPARTMENT, AND FOR FULFILLING TREATY STIPULATIONS WITH VARIOUS INDIAN TRIBES, FOR THE YEAR ENDING JUNE THIRTIETH, EIGHTEEN HUNDRED AND EIGHTY-FIVE, AND FOR OTHER PURPOSES.<sup>1</sup>**

§ 1. **Columbias and Colvilles.**—*Be it enacted, etc.,* That the following sums be and they are hereby appropriated, out of any money in the treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department, and fulfilling treaty stipulations with the various Indian tribes, namely: \* \* \* For the purpose of carrying into effect the agreement entered into at the city of Washington on the seventh day of July, eighteen hundred and eighty-three, between the secretary of the interior and the commissioner of Indian affairs and Chief Moses and other Indians of the Columbia and Colville reservations, in Washington Territory, which agreement is

<sup>1</sup>Approved July 4, 1884. (See 23 U. S. Stat., p. 76.)

hereby accepted, ratified and confirmed, including all expenses incident thereto, eighty-five thousand dollars, or so much thereof as may be required therefor, to be immediately available: *Provided*, That Sarsopkin and the Indians now residing on said Columbia reservation shall elect within one year from the passage of this act whether they will remain upon said reservation on the terms therein stipulated or remove to the Colville reservation: *And provided further*, That in case said Indians so elect to remain on said Columbia reservation the secretary of the interior shall cause the quantity of land therein stipulated to be allowed them to be selected in as compact form as possible, the same when so selected to be held for the exclusive use and occupation of said Indians, and the remainder of said reservation to be thereupon restored to the public domain, and shall be disposed of to actual settlers under the homestead laws only, except such portion thereof as may properly be subject to sale under the laws relating to the entry of timber lands and of mineral lands, the entry of which shall be governed by the laws now in force concerning the entry of such lands.

\* \* \* \* \*

#### No. 1298.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—It is hereby ordered that all that portion of country in Washington Territory withdrawn from sale and settlement, and set apart for the permanent use and occupation of Chief Moses and his people and such other friendly Indians as might elect to settle thereon with his consent and that of the secretary of the interior, by the executive orders dated April 19, 1879, and March 6, 1880, respectively, and not restored to the public domain by the executive order dated February 23, 1883, be and the same is hereby restored to the public domain, subject to the limitations as to disposition imposed by the act of congress approved July 4, 1884 (23 Stats., pp. 79–80), ratifying and confirming the agreement entered into July 7, 1883, between the secretary of the interior and the commissioner of Indian affairs and Chief Moses and other Indians of the Columbia and Colville reservations in Washington Territory.

§ 2. **Special Allotments.**—And it is hereby further ordered that the tracts of land in Washington Territory surveyed for and allotted to Sarsarp-kin and other Indians in accordance with the provisions of said act of July 4, 1884, which allotments were approved by the acting secretary of the interior April 12, 1886, be and the same are hereby set apart for the exclusive use and occupation of said Indians, the field notes of the survey of said allotments being as follows:

§ 3. **Nos. 1, 2, 3 and 4, in Favor of Sar-sarp-kin, Cum-sloct-poose, Showder and Jack, Respectively.**—Set stone on north bank of Sar-sarp-kin Lake for center of south line of claim No. 1. Run line north 78 degrees west and south 78 degrees east, and blazed trees to show course of south line of claim. Then run north 12 degrees east (var. 22 degrees east) in center of claim. At 80 chains set temporary stake and continued course. At 20 chains came to brush on right bank of Waring creek and offset to the right 9.25 chains. Thence continued course to 65 chains and offset to right 13.25 chains to avoid creek bottom and continued course. At 80 chains set temporary stake and continued course. At 37.50 offset 4.50 chains to right to avoid creek bottom and continued course. At 55.50 chains offset to right 4.77 chains to avoid creek bottom and continued course. At 80 chains set temporary stake and continued course to 32.60 chains. Thence run south 78 degrees east 8.23 chains and set stone 10 by 10 by 24 inches for northeast corner of claim. Then retraced line north 78 degrees west 12 chains and set stone 6 by 6 by 18 inches to course of

<sup>1</sup> Issued by the president May 1, 1886.

north line of claim No. 1, and south line of claim No. 2, and for center point in south line of claim No. 2 (claim No. 1, Sar-sarp-kin's, contains 2,180.8 acres). Thence run north 12 degrees east 80 chains. Blazed pine 20 inches diameter on 8 sides on right bank of Waring creek for center of north line of claim No. 2, and center of south line of claim No. 3. Set small stones north 78 degrees west and south 78 degrees east to show course of said line. Thence run north 12 degrees east in center of claim No. 3. At 10.50 chains offset to right 3 chains to avoid creek bottom and continued course. At 71 chains offset to left 4.28 chains to avoid creek bottom and continued course. At 76.25 chains crossed Waring creek 20 links wide. At 80 chains offset to right 1.23 chains and set stone 8 by 8 by 16 inches for center of north line of claim No. 3, and center of south line of claim No. 4. Run north 78 degrees west and south 78 degrees east and set stake to show course of said line. Then from center stone offset to left 1.23 chains and run thence north 12 degrees east. At 28 chains offset to left 2 chains to avoid creek bottom and continued course. At 80 chains offset to right 3.28 chains and set stone 10 by 10 by 16 inches on left bank of creek for center of north line of claim, and set stones north 78 degrees west and south 78 degrees east to show course of line.

§ 4. No. 5, in Favor of Ka-la-witch-ka.—From large stone, with two small stones on top, as center of north line of claim near left bank of Waring creek, about  $1\frac{1}{2}$  miles down stream from claim No. 4, and about 1 mile up stream from Mr. Waring's house, run line north  $80\frac{1}{4}$  degrees west and south  $80\frac{1}{4}$  degrees east, and set small stones to show course of north line of claim. Then run south  $9\frac{1}{4}$  degrees west (var. 22 degrees east); at 79.20 chains crossed Cecil creek 15 links wide. At 80 chains blazed pine 24 inches diameter on four sides, in clump of four pines, for center of south line of claim. Thence run north  $80\frac{1}{4}$  degrees west and south  $80\frac{1}{4}$  degrees east, and blazed trees to show course of south line of claim.

§ 5. No. 6, in Favor of Sar-sarp-kin.—From stone on ridge between Toad Coulee and Waring creeks run north 88 degrees east (var. 22 degrees east). At 18.50 chains enter field. At 24.50 chains enter brush. At 30.10 chains cross Waring creek 25 links wide. At 47.60 chains cross Waring's fence. At 65 chains set stone for corner 12 by 12 by 12 inches from which a pine 24 inches diameter bears north 88 degrees east 300 links distant. Thence north 4 degrees west 10.50 chains; set stone for corner 8 by 8 by 18 inches. Thence north 16 degrees west. At 29.20 chains pine tree 30 inches diameter in line. At 55 chains set stone for corner. Thence south  $66\frac{1}{4}$  degrees west to junction of Toad Coulee and Waring creeks, and continue same course up Toad Coulee creek to 81 chains blazed fir 18 inches diameter on four sides for corner, standing on right bank of Toad Coulee creek on small island. Thence south 38 degrees east. At 52 links cross small creek—branch of Toad Coulee creek—and continued course. At 42 chains point of beginning. The above described tract of land contains 379 acres.

§ 6. No. 7, in Favor of Quo-lock-ons, on the Head Waters of Johnson Creek.—From pile of stone on south side of Johnson Creek canon—dry at this point—125 feet deep, about 1 chain from the west end of canon, from which a fir 10 inches diameter bears north 25 degrees west 75 links distant, run south 55 degrees west (var. 22 degrees east). At 80 chains made stone mound for corner from which a large limestone rock 10 by 10 by 10 bears on the same course south 55 degrees west 8.80 chains distant. From monument run north 35 degrees west. At 72.50 chains crossed Johnson brook 4 links wide, and continued course 80 chains. Made mound of stone, and run thence north 55 degrees east 80 chains. Made stone monument and run thence south 35 degrees east 80 chains to beginning.

§ 7. No. 8, in Favor of Nek-quel-e-kin, or Wa-pa-to John.—From stone monument on shore of Lake Chelan, near houses of Wa-pa-to John

and Us-tah, run north (var. 22 degrees east) 10.00 chains, Wa-pa-to John's house bears west 10 links distant; 12.50 chains, Catholic chapel bears west 10 links distant; 32.50 chains, fence, course east and west; 80.00 chains, set stake 4 inches square, 4 feet long in stone mound for northeast corner of claim. Thence run west 80.00 chains, cross trail, course northwest and southeast, 80.00 chains, made stone monument for northwest corner of claim. Thence run south 35.60 chains, crossed fence, course east and west 77.00 chains, blazed cottonwood tree 12 inches in diameter on 4 sides for corner on shore of Lake Chelan, marked W. T. on side facing lake. Lake Chelan forms the southern boundary of claim, which contains about 640 acres.

§ 8. **No. 9, in Favor of Us-tah.**—This claim is bounded on the west by Wa-pa-to John's claim, and on the south by Lake Chelan. From Wa-pa-to John's northeast corner, which is a stake in stone mound run south  $64\frac{1}{2}$  degrees east (var. 22 degrees east) 88.56 chains, set stake in stone mound for corner of claim. Thence run south 55.50 chains, trail, course northwest and southeast, 80.00 chains, shore of Lake Chelan: set stake in stone mound for corner of claim, which contains about 640 acres.

§ 9. **No. 10, in Favor of Que-til-qua-soon, or Peter.**—This claim is bounded on the east by Wa-pa-to John's claim, and on the south and west by Lake Chelan. The field notes of north boundary are as follows: From northwest corner of Wa-pa-to John's claim, which is a stone monument, run west (var. 22 degrees east) 113.00 chains, shore of Lake Chelan. Blazed pine tree at the point 20 inches diameter on four sides for northwest corner of claim. This claim contains about 540 acres.

§ 10. **No. 11, in Favor of Tan-te-ak-o, or Johnny Isadore.**—From Wa-pa-to John's northeast corner, which is a stake in stone mound, run west (var. 22 degrees east) with Wa-pa-to John's north boundary line to stone monument, 80.00 chains, which is also a corner to Wa-pa-to John's and Peter's land. Thence on same course with Peter's north line 33.00 chains, made stone monument in said line for southwest corner of claim, and run thence north (var.  $22\frac{1}{2}$  degrees east) 80.00 chains, made stone monument on west side of shallow lake of about 40 acres, and continued course to 113.35 chains, made stone monument for north corner of claim, and run thence south 45 degrees east 160.00 chains, point of beginning. This claim contains 640 acres.

§ 11. **No. 12, in Favor of Ke-up-kin, or Celesta.**—This claim is bounded on the south by Peter's and on the east by Johnny's claim. From Peter's northwest corner, which is a pine, 20 inches diameter, blazed on four sides, on shore of Lake Chelan, run east with Peter's north line. 80.00 chains, stone monument, previously established, which is also a corner to Johnny's land. Thence north with Johnny's land, 80.00 chains, stone monument, previously established on west shore of shallow lake. Thence run west (var.  $22\frac{1}{2}$  degrees east) 80.00 chains. Set stake in stone mound for northwest corner of claim, from which a blazed pine 24 inches in diameter bears south 50 degrees west 98 links distant. A blazed pine 20 inches diameter bears north 45 degrees east 110 links distant. Thence north through open pine timber 80.00 chains, point of beginning.

§ 12. **No. 13, in Favor of Ta-we-na-po, of Amena.**—From Johnny's northwest corner, which is a stone monument, run south with Johnny's line, 33.35 chains, stone monument previously established, the same being Celesta's northeast corner. Thence west with Celesta's line, 80.00 chains, stone monument previously established, the same being the northwest corner of Celesta's claim. Thence north (var. 22 degrees east) 85.50 chains, small creek 4 links wide, course east and west, 126.70 chains, made stone monument for northwest corner of claim, from which a blazed pine 12 inches in diameter bears south 10 degrees west 59 links distant. Thence run south  $40\frac{1}{2}$  degrees east 123.00 chains, point of beginning. This claim contains 640 acres.

§ 13. **No. 14, in Favor of Pa-a-na-wa, or Pedoi.**—From northwest corner of Ameno's claim, which is a stone monument, from which a blazed pine 12 inches in diameter bears south 10 degrees west 59 links distant, run north 75 degrees west 43.50 chains, shore of Lake Chelan, blazed pine tree 6 inches in diameter on 4 sides for northwest corner of claim, from which a blazed pine 14 inches in diameter bears north 45 degrees east 18 links distant. Thence returned to point of beginning and run south with Ameno's line, 46.70 chains offset on right, 70.00 chains to Lake Chelan; 86.70 chains offset on right, 62.00 chains to Lake Chelan; 101.20 chains, made stone monument, from which a blazed pine 30 inches in diameter bears north 40 degrees west 95 links distant, a blazed pine 30 inches in diameter bears 40 degrees west 72 links distant. Thence run west 62.00 chains, shore of Lake Chelan. Made stone monument for southwest corner of claim, from which a blazed pine 10 inches in diameter bears north 30 links distant. Lake Chelan forms the western boundary of claim, which contains 640 acres.

§ 14. **No. 15, in Favor of Yo-ke-sil.**—From southwest corner of Pedoi's claim, which is a stone monument, from which a blazed pine 10 inches diameter bears north 30 links distant, run east with Pedoi's line, 62.00 chains, stone monument, previously established, from which a blazed pine, 30 inches diameter bears north 40 degrees west 95 links distant. A blazed pine 30 inches diameter bears south 40 degrees west 72 links distant, the same being Pedoi's southeast corner. Thence run south with Ameno's west line, 25.50 chains, stake in stone mound, previously established for corner to Ameno's and Celesta's claim. Thence continued course south with Celesta's west line to 105.50 chains, pine tree 20 inches in diameter, on shore of Lake Chelan, previously blazed on four sides for corner to Peter and Celesta's claims. Thence with the shore of lake in a northwesterly direction to point of beginning. This claim contains about 850 acres.

§ 15. **No. 16, in Favor of La-kay-use, or Peter.**—From stone monument, on bunch grass bench, about  $1\frac{1}{2}$  miles in a northeasterly direction from Wa-pa-to John's house, run north  $61\frac{1}{2}$  degrees east (var. 22 degrees east) 51.00 chains, enter small brushy marsh, 52.50 chains, leave marsh. 56.00 chains, made stone monument for corner of claim and run thence south  $28\frac{1}{2}$  degrees east. 11.60 chains, cross small irrigating ditch—small field and garden lie on right. 114.80 chains, made stone monument for corner and run thence south  $61\frac{1}{2}$  degrees west. 56.00 chains, made stone monument for corner of claim and run thence north  $28\frac{1}{2}$  degrees west. 114.80 chains, stone monument—point of beginning. This claim contains 640 acres.

§ 16. **No. 17, in Favor of Ma-Kai.**—Field notes of Ma-Kai's allotment on the Columbia Reservation. It is bounded on the west by Ustah's allotment, and on the south by Lake Chelan. From Ustah's northeast corner, which is a stake in stone mound, run south  $64\frac{1}{2}$  degrees east (var. 22 degrees). 80.00 chains, build monument of stone, running thence south. 80.00 chains, to the bank of Lake Chelan, built monument of stone; thence north  $64\frac{1}{2}$  degrees west along Lake Chelan. 80.00 chains, to the southeast corner of Ustah's allotment. The above described figure contains 507.50 acres. Antwine Settlement: This settlement consists of three claims in the same vicinity, though not adjoining, is located on or near the Columbia river, about 7 miles above Lake Chelan, and about 8 miles below the mouth of the Methow river, on the Columbia Reservation.

§ 17. **No. 18, in Favor of Scum-me-cha, or Antoine.**—From stone monument about 2 miles north from the Columbia, from which a blazed fir 20 inches in diameter bears south 80 degrees west 60 links distant, run south  $35\frac{1}{2}$  degrees east (var. 22 degrees east). 30.00 chains, summit of mountain spur, about 50 feet high. Antwine's house north 35 degrees east, about 20 chains distant. 80.00 chains, made stone monument for



corner, from which a blazed pine 8 inches in diameter bears south 45 degrees west 32 links distant. Thence run north  $55\frac{1}{2}$  degrees east (var. 22 degrees). 58.00 chains, bottom of dry canon 100 feet deep, course north-west and southeast. 80.00 chains, made stone monument for corner about one-quarter mile from Columbia river, and run thence north  $34\frac{1}{2}$  degrees west: 80.00 chains, made stone monument for corner and run thence south  $55\frac{1}{2}$  degrees west. 80.00 chains, stone monument, point of beginning.

§ 18. **No. 19, in Favor of Jos-is-kon, or San Pierre.**—This claim lies about 3 miles in a northwesterly direction from Antoine's claim, and consists of a body of hay land of about 100 acres, surrounded by heavy timber. From stone monument on hillside, facing southeast, from which a blazed pine 8 inches diameter bears south 60 degrees east 56 links distant. From which a blazed pine 8 inches diameter bears west 76 links distant. Run south  $23\frac{1}{2}$  degrees east (var. 22 degrees east). 6.50 chains, enter grass lands. 25.00 chains, leave grass lands. 80.00 chains, made stone monument for corner, from which a blazed pine 20 inches diameter bears north 85 degrees east 20 links distant. A blazed pine 20 inches diameter bears north 15 degrees east 27 links distant. Thence run north  $66\frac{1}{2}$  degrees east. 80.00 chains, made stone monument on steep little hill side for corner. Thence run north  $23\frac{1}{2}$  degrees west. 80.00 chains, made stone monument on mountain side for corner, from which a blazed pine 18 inches diameter bears north 40 degrees east 105 links distant. From which a blazed pine 20 inches diameter bears south 10 degrees east 127 links distant. Thence runs south  $66\frac{1}{2}$  degrees west along mountain side. 80.00 chains to point of beginning.

§ 19. **No. 20, in Favor of Charles Iswald.**—This claim lies about 2 miles in a northeasterly direction from Antoine's claim. It contains no timber, but is mostly fair grazing land with about 100 acres susceptible of cultivation. No improvements. From pine tree on right bank of Columbia river, blazed on four sides, where rocky spur 200 feet high comes down to near bank, forming narrow pass, from which a blazed pine 36 inches in diameter bears north 177 links distant, run south 13 degrees west (var. 22 degrees east). 102.25 chains, made stone monument for corner on hillside in view of main trail. Thence run south  $5\frac{1}{2}$  degrees west. 78.00 chains, made stone monument for corner. Thence south  $\frac{1}{2}$  degree west. 25.65 chains, made stone monument on bank of Columbia river for corner. Thence with said river to a point of beginning, containing 640 acres of land. The three following claims are all adjoining. They are located on and near the Columbia river, about 12 miles above Lake Chelan, and about 3 miles below the mouth of the Methow river.

§ 20. **No. 21, in Favor of In-perk-skin, or Peter No. 3.**—From pine 12 inches diameter blazed on four sides on right bank of Columbia river, from which a blazed pine 10 inches diameter bears south 40 degrees east, 46 links distant, run north  $69\frac{1}{2}$  degrees west (var. 22 degrees east). 3.50 chains, enter corner of small field. 7.50 chains, leave field. 8 chains, cross trail. 80 chains, made stone monument for corner on mountain side about 500 feet above river. Thence run north  $20\frac{1}{2}$  degrees east. 24.00 chains, summit of rugged little mountain 700 feet high. 80.00 chains, made stone monument for corner on top of small rocky hill about 40 feet high. Thence south  $69\frac{1}{2}$  degrees east. 80.00 chains, erected stone monument for corner about 15 chains from river bank. Thence south  $20\frac{1}{2}$  degrees west. 80.00 chains, point of beginning.

§ 21. **No. 22, in Favor of Tew-wew-wa-ten-eek, or Aeneas.**—From northwest corner of Peter's claim, which is a stone monument on summit of small hill, run north  $20\frac{1}{2}$  degrees east (var.  $22\frac{1}{2}$  degrees east). 80.00 chains, made stone monument for corner, and run thence north  $69\frac{1}{2}$  degrees west (var. 23 degrees east). 80.00 chains, made stone monument for corner, and run thence south  $20\frac{1}{2}$  degrees west (var.  $22\frac{1}{2}$  degrees east).

39.00 chains, summit of steep hill 100 feet high. 80.00 chains, made stone monument for corner of claim on rolling hillside facing west. Thence south  $69\frac{1}{4}$  degrees east (var.  $23\frac{1}{4}$  degrees east). 80.00 chains, point of beginning.

§ 22. No. 23, in Favor of Stem-na-lux, or Elizabeth.—From northwest corner of Peter's claim, the same being the southeast corner of Aeneas' claim, which is a stone monument on top of small hill, run north  $69\frac{1}{4}$  degrees west with Aeneas' south line (var.  $22\frac{1}{4}$  degrees east). 80.00 chains, stone monument previously established for southwest corner of Aeneas' claim. Thence north  $20\frac{1}{4}$  degrees west (var.  $23\frac{1}{4}$  degrees east). 65.00 chains, summit of hill. 80.00 chains, made stone monument for corner from which a blazed pine 24 inches diameter bears south 70 links distant. A blazed pine 24 inches diameter bears south 20 degrees west 84 links distant. Thence south  $69\frac{1}{4}$  degrees east. 80.00 chains, monument previously established for southwest corner of Peter's claim. Thence south  $20\frac{1}{4}$  degrees east with Peter's west line. 80.00 chains, point of beginning. The five following claims are all adjoining. They are located along the southern bank of the Methow, and the western bank of the Columbia on the Columbia Reservation.

§ 23. No. 24, in Favor of Neek-kow-it, or Captain Joe.—From stone monument on right bank of Methow river, about three-fourth mile from its mouth, from which a pine 24 inches in diameter bears north 37 degrees west on opposite bank of Methow, for witness corner to true corner, which is in center of Methow river, opposite monument, 1.50 chains distant. Run south 37 degrees west (var. 22 degrees east). (Distances given are from true corner.) 7.00 chains, enter garden. 12.00 chains, leave garden. 39.00 chains, top of bench 400 feet high. 116.50 chains, Canon Mouth lake, containing about 80 acres. Set stake in stone mound on shore of lake for witness corner to true corner, which falls on side of impassable mountain, beyond lake 160 chains from point of beginning. Returned to witness corner previously set on bank of Methow, and run thence north 53 degrees west. 40.00 chains, offset on right 2 chains to bank of Methow, and made stone monument for witness to true corner, which falls in center of Methow, opposite monument 1 chain distant. Thence run south 37 degrees west. (Distances given are from true corner.) 42.00 chains, top of bench 400 feet high. 113.00 chains, marked tree with two notches fore and aft, and blazed one tree on each side to show course of line. 115.00 chains, impassable mountain. True corner falls in course on mountain side 160 chains distant from true corner at other end of line in the Methow river. General description of boundary: From point first described in center of Methow river south 37 degrees west 160 chains; thence north 52 degrees 39 minutes west 40.20 chains; thence north 37 degrees east 160 chains to point previously described in middle of Methow; thence with middle of Methow river to point of beginning. Claim contains 640 acres.

§ 24. No. 25, in Favor of Hay-tal-i-cum, or Narcisse.—From stone monument on right bank of Methow river, previously described as witness corner to point of beginning to survey of Captain Joe's claim, said monument being a true corner to this claim, run south 37 degrees west with Captain Joe's line (var. 22 degrees east). 45.60 chains, set stake in stone mound for corner and run thence south 53 degrees east. 80.00 chains, set stake 8 inches square for corner; thence run north 37 degrees east. 73.10 chains, made stone monument for corner on right bank of Columbia. Near opposite bank of river a black rock protrudes from water. Thence with right bank of Columbia river to mouth of Methow river. Thence with right bank of Methow river to point of beginning. This claim contains 640 acres of land.

• § 25. No. 26, in Favor of Kleck-hum-tecks.—From stake in stone mound previously set in Captain Joe's southeast line, the same being the

southwest corner to Narcisse's claim, run south 53 degrees east ( var. 22 degrees east), with Narcisse's line. 80.00 chains, corner previously established thence runs south 37 degrees west. 80.00 chains, set stake for corner, and run thence north 53 degrees west. 73.80 chains, set stake marked W. C. on shore of Canon Mouth lake, from which blazed aspen, 6 inches diameter, bears north 5 degrees west 94 links distant for witness corner to true corner, which falls on line 6.50 chains further in lake, in Captain Joe's southeast line. Thence with said line north 37 degrees east 80 chains to point of beginning. This claim contains 640 acres.

§ 26. **No. 27, in Favor of Ki-at-kwa, or Mary.**—From witness corner previously established on Methow, in Captain Joe's northwest line, the same being taken as a true corner to this claim, run south 37 degrees west (var. 22 degrees east) with Captain Joe's line. 80.00 chains, made stone monument for corner; then returned on line, and from point 1.50 chains from corner run north 53 degrees west. 64.00 chains, offset to left 22 chains to avoid bend in river and continued course. 80.00 chains bank of Methow river. Made stone monument for corner, and run thence south 37 degrees west. 12.00 chains, top of bench 400 feet high. 24.00 chains, foot of perpendicular basaltic cliff offset to right 2 chains. 31.50 chains, offset to left 2 chains and continued course. 40.00 chains, made stone monument and continued course. 45.00 chains, impassable mountain. True corner falls 11.50 chains further on line on side of mountain. General description by boundary: From point of beginning south 37 degrees west 80 chains; thence north 53 degrees west 80 chains; thence north 37 degrees east 56.50 chains to corner on Methow; thence with right bank of Methow to point of beginning, containing about 640 acres.

§ 27. **No. 28, in Favor of Ta-tat-kein, or Tom.**—From northwest corner of Mary's claim, which is a stone monument on the right bank of the Methow, run south 27 degrees west (var. 22 degrees east) with Mary's line. 40.00 chains, corner previously established, stone monument; thence north 53 degrees west. 80.00 chains, made stone monument in aspen thicket for corner; thence north 27 degrees east. 106.50 chains, right bank of Methow river; made stone monument for corner; thence with right bank of Methow river to point of beginning. This claim contains about 640 acres. Downing Creek settlement: This settlement consists of two adjoining claims on Downing creek, on the right bank of the Columbia river on the Columbia Reservation, about 7 miles below the mouth of the Okinakan river, and about 3 miles above the mouth of the Methow river.

§ 28. **No. 29, in Favor of La-la-elque.**—From stone monument on right bank of Columbia river, about one-half mile above mouth of Downing creek, run north 25 degrees west (var. 22 degrees east). 42.75 chains, point on hill about 500 feet high, 30 links to right of old stone mound on top of hill; 79.30 chains, large flat topped stone, 5 links to right; 80.00 chains, made stone monument for corner and run thence south 65 degrees west. 80.00 chains, made stone monument for corner on hillside near top of hill and run thence south 25 degrees east. 78.00 chains, bank of Columbia river. Made stone monument for corner. Thence with Columbia river to point of beginning. This claim contains about 640 acres.

§ 29. **No. 30, in Favor of Snain-chucks.**—From northeast corner of La-la-elque's claim, which is a stone monument, run north 25 degrees west. 80.00 chains, made stone monument for corner and run thence south 65 degrees west. 80.00 chains, made stone monument for corner and run thence south 25 degrees east. 80.00 chains, stone monument previously established, the same being La-la-elque's northwest corner; thence north 65 degrees east. 80.00 chains, point of beginning. This claim contains 640 acres of land.

§ 30. **No. 31, in Favor of Edward, Near Palmer Lake, Toad Coulee.**—Commencing at a prominent rock 7 feet by 3 feet by 4 inches and unknown length, the above dimensions projecting above the surface. Run-

ning thence (var. 22 degrees 15 minutes) north 82 degrees east 80 chains. At 57.70 Thorn creek, 80 links wide, northeast. At 80 set willow stake 5 inches square and 5 feet long, marked sta. 1, north 8 degrees west 80 chains. A limejuice tree 18 inches diameter at 80, set basaltic stone 2 feet by 8 inches by 6 inches with monument of stone on the side of bluff on the east side of the valley, sta. 2, south 82 degrees west 80 chains. At 6 chains Thorn creek 80 links wide bears northeast, at 8 chains the Smilkameen (Similkameen) river 100 links wide bears northeast. At 89, on the same river, bears southwest. At 80 set quaking aspen stake 4 inches square, 4 feet long, marked sta. 3. South 8 degrees east 80 chains to the place of beginning. The terminus. 640 acres.

§ 31. **No. 32, in Favor of Dominec.**—Commencing on a slough of the Smilkameen (Similkameen) river, on the forty-ninth parallel (the British line) set quaking aspen stake 4 inches square and 4 feet long, 18 inches in the earth, marked C. C., from which a pine tree 42 inches in diameter bears north 79 degrees 45 minutes west 2 chains, marked C. C. B. T., facing post; thence (var. 22 degrees 15 minutes east) west 81 chains to a point from which the parallel monument bears west 4.77 chains; built monument of granite stone. South 184 chains. At 42.50 chains a spring branch, 5 links wide, bears east. At 184 chains built monument of stone at foot of bluff. East 61.53 chains to a balm tree 30 inches in diameter, marked sta. 3, facing west, from which the Smilkameen (Similkameen) river bears west 2.48 chains. North 12 degrees 38 minutes west 137.43 chains. At 10 chains the Smilkameen (Similkameen) river bears southeast; at 120 the same river west of south. At 137.43 intersects the place of beginning. Terminus. 620.26 acres.

§ 32. **No. 33, in Favor of Ko-mo-dal-kiah.**—Commencing on the west bank of the Okanagan (Okinakane) river at the north end of an island, set stake 4 inches square, 4 feet long, marked C. C., with mound. Running thence (var. 22 degrees 15 minutes) south 86 degrees 45 minutes west 150 chains, set balm stake 4 inches square, 4 feet long and 18 inches in the earth, with monument of washed bowlders covered with mound of earth, 4 pits, and marked sta. 1. South 3 degrees 15 minutes east 42.66 chains, set balm stake 4 inches square, 4 feet long, marked sta. 2, with monument of granite stones. North 86 degrees 45 minutes east 138.21 chains. A balm tree on the west bank of the Okanagan (Okinakane) river, marked sta. 3, facing west, the true corner falling in the Okanagan (Okinakane) river, 11.79 chains further on in the same line at the east bank of an island, north 3 degrees 15 minutes west 42.66 chains, intersect the north line from which the place of beginning bears north 86 degrees 45 minutes east 11.79, the terminus. Area, 639.90 acres.

§ 33. **No. 34, in Favor of Paul.**—Commencing at the southwest corner (sta. 3) of Ko-mo-dal-kiah's allotment. Running thence (var. 22 degrees 15 minutes) south 3 degrees 15 minutes east 42.66 chains; built monument of basaltic stone, sta. 1. North 86 degrees 45 minutes east 142.87 chains intersect the Okanagan (Okinakane) river. Set balm stake 4 inches square, 4 feet long and 18 inches in the ground, marked (sta. 2). North 9 degrees 45 minutes west 42.70 chains, Ko-mo-dal-kiah's bearing corner a balm tree 12 inches in diameter marked sta. C. C. on the south side. The terminus. Area, 599.55 acres.

§ 34. **No. 35, in Favor of Que-lock-us-soma.**—Commencing at the southeast corner of Paul's allotment, running thence (var. 22 degrees 15 minutes) south 86 degrees 45 minutes west 43.87 chains; built monument of washed granite bowlders (sta. 1). South 3 degrees 15 minutes east 80 chains; built monument of washed granite bowlders (sta. 2). North 86 degrees 45 minutes east 96.42 chains; intersect the Okanagan (Okinakane) river, set balm stake 4 inches square, 4 feet long and 18 inches in the ground, marked (sta. 3); thence up the Okanagan (Okinakane) river, north 45 degrees 30 minutes west 76 chains to a curve in the river. North

3 degrees 15 minutes west 25 chains, intersect the place of beginning. The terminus. Area, 495.47 acres.

§ 35. **No. 36, in Favor of Se-cum-ka-nallux.**—Commencing on the west bank of Okanagan (Okinakane) river at a little pine tree 4 inches in diameter; running thence down the river (var. 22 degrees 15 minutes south 3 degrees west 45.65 chains to a pine tree on the bank of the Okanagan (Okinakane); thence down the river north 57 degrees 45 minutes west 22 chains, intersect the old Indian trail, built monument of stone. South 15 degrees west 124.50 chains to a pine tree 25 inches in diameter, marked sta. 3; thence north 51 degrees 45 minutes west 82.75 chains; at 22 chains a small lake 5 chains wide; at 82.75 built monument of stone. north 50 degrees east 167.55 chains, to the place of beginning—the terminus. Area, 687.44 acres.

§ 36. **No. 37, in Favor of John Salla-Salla.**—Commencing at the junction of Johnston creek and the Okanagan (Okinakane) river; thence by Johnston creek (var. 22 degrees 15 minutes) south 69 degrees 45 minutes west 40 chains; built monument of stone on the south bank of Johnston creek; sta. — 8 degrees 15 minutes west 91.54 chains; built monument of basaltic stone, sta.; north 69 degrees 45 minutes east 117.50 chains to the Okanagan (Okinakane) river; set balm stake 4 inches square 4 feet long, marked sta. 3, north 45 degrees 30 minutes west 86.53 chains to the place of beginning, the mouth of Johnston creek. Area, 680 acres.

### CHAPTER III.—COLVILLE RESERVE.†

#### No. 1299.—EXECUTIVE ORDERS.<sup>1</sup>

<sup>1</sup> The tract included in the following boundaries was suggested as a reserve for the approval of the secretary of interior, by the commissioner of Indian affairs, in a letter dated April 8, 1872: "Commencing at a point on the Columbia where the Spokane river empties in the same; thence up the Columbia river to where it crosses the forty-ninth parallel north latitude; thence east with said forty-ninth parallel to where the Pend d'Oreille or Clark river crosses the same; thence up the Pend d'Oreille or Clark river to where it crosses the western boundary of Idaho Territory, the one hundredth and seventeenth meridian west longitude; thence south along said one hundredth and seventeenth meridian to where the Little Spokane river crosses the same; thence southwesterly with said river to its junction with the Big Spokane river; thence down the Big Spokane river to the place of beginning." The secretary approved the suggestion of the commissioner April 9, 1872, and the following order was issued by the president April 9, 1872: "It is hereby ordered that the tract of country referred to in the within letter of the acting secretary of the interior, and designated upon the accompanying map, be set apart for the bands of Indians in Washington Territory named in communication of the commissioner of Indian affairs dated the 8th instant, and for such other Indians as the department of the interior may see fit to locate thereon." And on July 2, 1872, the president issued the following order changing said reserve: "It is hereby ordered that the tract of country referred to in the within letter of the commissioner of Indian affairs as having been set apart for the Indians therein named by executive order of April 9, 1872, be restored to the public domain, and that in lieu thereof the country bounded on the east and south by the Columbia river, on the west by the Okanagan river, and on the north by the British possessions, be and the same is hereby set apart as a reservation for said Indians, and for such other Indians as the department of the interior may see fit to locate thereon."

† See also No. 1297, *supra*.



CHAPTER IV.—LUMMI RESERVE.

**No. 1300.—TREATY BETWEEN THE UNITED STATES AND THE DWAMISH, SUQUAMISH, AND OTHER ALLIED AND SUBORDINATE TRIBES OF INDIANS IN WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Preamble.**—James Buchanan, President of the United States, to all and singular to whom these presents shall come, greeting: WHEREAS, A treaty was made and concluded at Muckl-te-oh, or Point Elliott in the Territory of Washington, the twenty-second day of January, one thousand eight hundred and fifty-five, by Isaac I. Stevens, governor and superintendent of Indian affairs for the said Territory, on the part of the United States, and the hereinafter named chiefs, headmen and delegates of the Dwamish, Suquamish, Sk-tahl-mish, Sam-ahmish, Smalh-kahmish, Skope-ahmish, St-kah-mish, Snoqualmoo, Skai-wha-mish, N'Quentl-ma-mish, Sk-tah-le-jum, Stoluck-wha-mish, Sno-ho-mish, Skagit, Kik-i-allus, Swin-a-mish, Squin-ah-mish, Sah-ku-mehu, Noo-wha-ha, Nook-wa-chah-mish, Mee-see-qua-guilch, Cho-bah-ah-bish, and other allied and subordinate tribes and bands of Indians occupying certain lands situated in said Territory of Washington, on behalf of said tribes and duly authorized by them; which treaty is in the words and figures following, to wit:

§ 2. **Parties.**—Articles of agreement and convention made and concluded at Muckl-te-oh, or Point Elliott, in the Territory of Washington, this twenty-second day of January, eighteen hundred and fifty-five, by Isaac I. Stevens, governor and superintendent of Indian affairs for the said Territory, on the part of the United States, and the undersigned chiefs, headmen and delegates of the Dwamish, Suquamish, Sk-tahl-mish, Samahmish, Smalh-kamish, Skope-ahmish, St-kah-mish, Snoqualmoo, Skai-wha-mish, N'Quentl-ma-mish, Sk-tah-le-jum, Stoluck-wha-mish, Sno-ho-mish, Skagit, Kik-i-allus, Swin-a-mish, Squin-a-mish, Sah-ku-mehu, Noo-wha-ha, Nook-wa-chah-mish, Mee-see-qua-guilch, Cho-bah-ah-bish, and other allied and subordinate tribes and bands of Indians occupying certain lands situated in said Territory of Washington, on behalf of said tribes, and duly authorized by them.

ARTICLE I.

§ 3. **Boundaries of Cession.**—The said tribes and bands of Indians hereby cede, relinquish and convey to the United States all their right, title and interest in and to the lands and country occupied by them, bounded and described as follows: Commencing at a point on the eastern side of Admiralty Inlet known as Point Pully, about midway between Commencement and Elliott Bays; thence eastwardly, running along the north line of lands heretofore ceded to the United States by the Nisqually, Puyallup and other Indians, to the summit of the Cascade range of mountains; thence northwardly, following the summit of said range, to the forty-ninth parallel of north latitude; thence west along said parallel to the middle of the Gulf of Georgia; thence through the middle of said gulf and the main channel through the Canal de Arro to the Straits of Fuca, and crossing the same through the middle of Admiralty Inlet to Suquamish Head; thence southwesterly through the peninsula and following the divide between Hood's Canal and Admiralty Inlet to the portage known as Wilkes' portage; thence northeastwardly and following the line of lands heretofore ceded as aforesaid to Point Southworth, on the western side of Admiralty Inlet, and thence round the foot of Vashon's Island eastwardly

<sup>1</sup> (See 12 U. S. Stat., p. 927.) Concluded at Point Elliott, Washington Territory, Jan. 22, 1855. Ratified by the senate March 8, 1859. Proclaimed by the president April 11, 1859.

and southeastwardly to the place of beginning, including all the islands comprised within said boundaries, and all the right, title and interest of the said tribes and bands to any lands within the territory of the United States.

## ARTICLE II.

§ 4. **Boundaries of Reservation.**—There is, however, reserved for the present use and occupation of the said tribes and bands the following tracts of land, viz., the amount of two sections, or twelve hundred and eighty acres, surrounding the small bight at the head of Port Madison called by the Indians Noo-sohk-um; the amount of two sections, or twelve hundred and eighty acres, on the north side Hwhomish Bay and the creek emptying into the same called Kwilt-seh-da, the peninsula at the southeastern end of Perry's Island called Shais-quihl, and the island called Chah-choo-sen, situated in the Lummi river at the point of separation of the mouths emptying respectively into Bellingham Bay and the Gulf of Georgia. All which tracts shall be set apart and so far as necessary surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the said tribes or bands and of the superintendent or agent, but, if necessary for the public convenience, roads may be run through the said reserves, the Indians being compensated for any damage thereby done them.

## ARTICLE III.

§ 5. **Special Reservation.**—There is also reserved from out the lands hereby ceded the amount of thirty-six sections, or of one township of land, on the northeastern shore of Port Gardner, and north of the mouth of Snohomish river, including Tulalip Bay and the before mentioned Kwilt-seh-da creek, for the purpose of establishing thereon an agricultural and industrial school, as hereinafter mentioned and agreed, and with a view of ultimately drawing thereto and settling thereon all the Indians living west of the Cascade mountains in said territory: *Provided, however,* That the president may establish the central agency and general reservation at such other point as he may deem for the benefit of the Indians.

\* \* \* \* \*

## ARTICLE VII.

§ 6. **Individual Allotment of Lands.**—The president may hereafter, when in his opinion the interests of the Territory shall require and the welfare of the said Indians be promoted, remove them from either or all of the special reservations hereinbefore made to the said general reservation, or such other suitable place within said Territory as he may deem fit, on renumeration for their improvements and the expenses of such removal, or may consolidate them with other friendly tribes or bands; and he may further, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas,<sup>2</sup> so far as the same may be applicable. Any

<sup>2</sup> (See 10 U. S. Stat., p. 1043.) The article referred to reads as follows: "Article 6. The president may, from time to time, at his discretion, cause the whole or such portion of the land hereby reserved, as he may think proper, or of such other land as may be selected in lieu thereof, as provided for in article first, to be surveyed into lots, and to assign to such Indian or Indians of said tribe as are willing to avail of the privilege, and who will locate on the same as a permanent home, if a single person over twenty-one years of age, one-eighth of a section; to each family of two, one quarter section; to each family of three and not exceeding five, one-half section; to each family of six and not exceeding ten, one section; and to each family over ten in number, one quarter section for every

substantial improvements heretofore made by any Indian, and which he shall be compelled to abandon in consequence of this treaty, shall be valued under the direction of the president and payment made accordingly therefor.

\* \* \* \* \*

ARTICLE XV.

§ 7. **When Obligatory.**—This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the president and senate of the United States.

\* \* \* \* \*

No. 1301.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—It is hereby ordered that the following tract of country in Washington Territory be withdrawn from sale and set apart for the use and occupation of the Dwamish and other allied tribes of Indians, viz.: Commencing at the eastern mouth of the Lummi river; thence up said river to the point where it is intersected by the line between sections 7 and 8 of township 38 north, range 2 east of the Willamette meridian; thence due north on said section line to the township line between townships 38 and 39; thence west along said township line to low water mark on the shore of the Gulf of Georgia; then southerly and easterly along the said shore, with the meanders thereof, across the western mouth of Lummi river and around Point Francis; thence northeasterly to the place of beginning; so much thereof as lies south of the west fork of the Lummi river being a part of the island already set apart by the second article of the treaty with the Dwamish and other allied tribes of Indians, made and concluded January 22, 1857. (Stats. at Large, vol. 12, p. 928.)

<sup>1</sup> Issued by the president Nov. 22, 1873.

additional five members. And he may prescribe such rules and regulations as will insure to the family, in case of the death of the head thereof, the possession and enjoyment of such permanent home and the improvements thereon. And the president may, at any time, in his discretion, after such person or family has made a location on the land assigned for a permanent home, issue a patent to such person or family for such assigned land, conditioned that the tract shall not be aliened or leased for a longer term than two years, and shall be exempt from levy, sale or forfeiture, which conditions shall continue in force until a State constitution, embracing such lands within its boundaries, shall have been formed, and the legislature of the State shall remove the restrictions. And if any such person or family shall at any time neglect or refuse to occupy and till a portion of the lands assigned, and on which they have located, or shall rove from place to place, the president may, if the patent shall have been issued, cancel the assignment, and may also withhold from such person or family their proportion of the annuities or other moneys due them, until they shall have returned to such permanent home, and resumed the pursuits of industry; and in default of their return the tract may be declared abandoned, and thereafter assigned to some other person or family of such tribe, or disposed of as is provided for the disposition of the excess of said land. And the residue of the land hereby reserved, or of that which may be selected in lieu thereof, after all of the Indian persons or families shall have had assigned to them permanent homes, may be sold for their benefit, under such laws, rules or regulations as may hereafter be prescribed by the congress or president of the United States. No State legislature shall remove the restrictions herein provided for, without the consent of congress."

## CHAPTER V.—MAKAH RESERVE.

**No. 1302.—TREATY BETWEEN THE UNITED STATES AND THE MAKAH TRIBE OF INDIANS.<sup>1</sup>**

§ 1. **Preamble.**—James Buchanan, president of the United States of America, to all and singular to whom these presents shall come, greeting: WHEREAS, A treaty was made and concluded at Neah Bay, in the Territory of Washington, on the thirty-first day of January, eighteen hundred and fifty-five, between Isaac I. Stevens, governor and superintendent of Indian affairs for said Territory, on the part of the United States, and the hereinafter named chiefs, headmen and delegates of the several villages of the Makah tribe of Indians, viz.: Neah Waatch, Tsoo-Yess and Osett, occupying the country around Cape Classet, or Flattery, on behalf of the said tribe, and duly authorized by the same; which treaty is in the words and figures following, to wit:

§ 2. **Parties.**—Articles of agreement and convention made and concluded at Neah Bay, in the Territory of Washington, this thirty-first day of January, in the year eighteen hundred and fifty-five, by Isaac I. Stevens, governor and superintendent of Indian affairs for the said Territory, on the part of the United States, and the undersigned chiefs, headmen and delegates of the several villages of the Makah tribe of Indians, viz.: Neah Waatch, Tsoo-Yess and Osett, occupying the country around Cape Classet, or Flattery, on behalf of the said tribe, and duly authorized by the same.

## ARTICLE I.

§ 3. **Boundaries of Cession.**—The said tribe hereby cedes, relinquishes and conveys to the United States all their right, title and interest in and to the lands and country occupied by it, bounded and described as follows, viz.: Commencing at the mouth of the Oke-ho river, on the Straits of Fuca; thence running westwardly with said straits to Cape Classet, or Flattery; thence southwardly along the coast to Osett or the Lower Cape Flattery; thence eastwardly along the line of lands occupied by the Kwe-deh-tut or Kwill-eh-yute tribe of Indians, to the summit of the coast range of mountains, and thence northwardly along the line of lands lately ceded to the United States by the S'Klallam tribe to the place of beginning, including all the islands lying off the same on the straits and coast.

## ARTICLE II.

§ 4. **Boundaries of Reservation.**—There is, however, reserved for the present use and occupation of the said tribe the following tract of land, viz.: Commencing on the beach at the mouth of a small brook running into Neah Bay next to the site of the old Spanish fort; thence along the shore round Cape Classet, or Flattery, to the mouth of another small stream running into the bay on the south side of said cape, a little above the Waatch village; thence following said brook to its source; thence in a straight line to the source of the first mentioned brook, and thence following the same down to the place of beginning; which said tract shall be set apart, and so far as necessary surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the said tribe and of the superintendent or agent; but if necessary for the public convenience, roads may be run through the said reservation, the Indians being compensated for any

<sup>1</sup> (See 12 U. S. Stat., p. 939.) Concluded at Neah Bay, Washington Territory, Jan. 31, 1855; ratified by the senate March 8, 1859; proclaimed by the president April 18, 1859.

damage thereby done them. It is, however, understood that should the president of the United States hereafter see fit to place upon the said reservation any other friendly tribe or band to occupy the same in common with those above mentioned, he shall be at liberty to do so.

\* \* \* \* \*

ARTICLE VII.

§ 5. **Individual Allotment of Lands.**—The president may hereafter, when in his opinion the interests of the Territory shall require, and the welfare of said Indians be promoted thereby, remove them from said reservation to such suitable place or places within said Territory as he may deem fit, on remunerating them for their improvements and the expenses of their removal, or may consolidate them with other friendly tribes or bands; and he may further, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate thereon as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas,<sup>2</sup> so far as the same may be practicable.

\* \* \* \* \*

ARTICLE XIV.

§ 6. **When Obligatory.**—This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the president of the United States.

\* \* \* \* \*

<sup>2</sup> See No. 1300, *supra*, Note 2.

No. 1303.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—In addition to the reservation provided for by the second article of the treaty concluded January 31, 1855, with the Makah Indians of Washington Territory, it is hereby ordered that there be withdrawn from sale and set apart for the use of the said Makah and other Indians a tract of country in the said Territory of Washington, described and bounded as follows, viz.: Commencing on the beach at the mouth of a small brook running into Neah Bay next to the site of the old Spanish fort; thence along the shore of said bay in a northeasterly direction to Baadah Point (being a point about 4 miles from the beginning); thence in a direct line south 6 miles; thence in a direct line west to the Pacific shore; thence northwardly along the shore of the Pacific to the mouth of a small stream running into the bay on the south side of Cape Flattery, a little above the Waatch village; thence following said brook to its source; thence in a straight line to the place of beginning; the boundary line from the mouth of the brook last mentioned to the place of beginning being identical with the southeastern boundary of the reservation set apart for the Makah tribe of Indians by the treaty concluded with said Indians January 31, 1855, before referred to.

<sup>1</sup> Issued by the president Oct. 26, 1872.

No. 1304.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—In lieu of the addition made by executive order dated October 26, 1872, to the reservation provided for by the second article of the treaty concluded January 31, 1855, with the Makah Indians of Washington Territory, it is hereby ordered that there be withdrawn from

<sup>1</sup> Issued by the president Jan. 2, 1873.



sale and set apart as such addition, for the use of the said Makah and other Indians, the tract of country in said Territory of Washington bounded as follows, viz.: Commencing on the beach at the mouth of a small brook running into Neah Bay next to the site of the old Spanish fort; thence along the shore of said bay in a northeasterly direction four miles; thence in a direct line south 6 miles; thence in a direct line west to the Pacific shore; thence northwardly along the shore of the Pacific to the mouth of a small stream running into the bay on the south side of Cape Flattery a little above the Waatch village; thence following said brook to its source; thence in a straight line to the place of beginning; the boundary line from the mouth of the brook last mentioned to the place of beginning being identical with the southeastern boundary of the reservation set apart for the Makah and other Indians by the treaty above referred to.

**No. 1305.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Boundaries.**—In lieu of the addition made by executive order dated October 26, 1872, and amended by executive order of January 2, 1873, to the reservation provided for by the second article of the treaty concluded January 31, 1855, with the Makah tribe of Indians of Washington Territory (Statutes at Large, vol. 12, p. 939), which orders are hereby revoked, it is hereby ordered that there be withdrawn from sale and set apart as such addition for the use of said Makah and other tribes of Indians the tract of country in said Territory bounded as follows, viz.: Commencing on the beach at the mouth of a small brook running into Neah Bay next to the site of the old Spanish fort; thence along the shore of said bay in a northeasterly direction 4 miles; thence in a direct line south 6 miles; thence in a direct line west to the Pacific shore; thence northwardly along the shore of the Pacific to the mouth of another small stream running into the bay on the south side of Cape Flattery, a little above the Waatch village; thence following said brook to its source; thence in a straight line to the source of the first mentioned brook, and thence following the same down to the place of beginning.

<sup>1</sup> Issued by the president Oct. 21, 1873.

**CHAPTER VI.—MUCKLESHOOT RESERVE.†**

**No. 1306.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Boundaries.**—It is hereby ordered that the following tracts of land in Washington Territory, viz.: Sections 2 and 12 of township 20 north, range 5 east, and sections 20, 28 and 34, of township 21 north, range 5 east, Willamette meridian, be withdrawn from sale or other disposition, and set apart as the Muckleshoot Indian Reservation, for the exclusive use of the Indians in that locality, the same being supplemental to the action of the department approved by the president January 20, 1857.

†For executive order of January 20, 1857, relative to Muckleshoot Reserve, see "Nisqually Reserve," No. 1307, Note 3, *infra*.

<sup>1</sup> Issued by the president April 9, 1874.

CHAPTER VII.—NISQUALLY RESERVE.†

**No. 1307.—TREATY BETWEEN THE UNITED STATES AND THE NISQUALLY, PUYALLUP, STEILACOOM, SQUAWKSIN, S'HOMAMISH, STEH-CHASS, T'PEEKSIN, SQUI-AITL AND SA-HEH-WAMISH TRIBES OF INDIANS.<sup>1</sup>**

**§ 1. Preamble.**—Franklin Pierce, president of the United States of America, to all and singular to whom these presents shall come, greeting: WHEREAS, A treaty was made and concluded on the She-nah-nam, or Medicine creek, in the Territory of Washington, on the twenty-sixth day of December, one thousand eight hundred and fifty-four, between the United States of America and the Nisqually and other bands of Indians, which treaty is in the words following, to wit:

**§ 2. Parties.**—Articles of agreement and convention made and concluded on the She-nah-nam, or Medicine creek, in the Territory of Washington, this twenty-sixth day of December, in the year one thousand eight hundred and fifty-four, by Isaac I. Stevens, governor and superintendent of Indian affairs of the said Territory, on the part of the United States, and the undersigned chiefs, headmen and delegates of the Nisqually, Puyallup, Steilacoom, Squawksin, S'Homamish, Steh-chass, T'Peeksin, Squi-aitl and Sa-heh-wamish tribes and bands of Indians, occupying the lands lying round the head of Puget's Sound and the adjacent inlets, who, for the purpose of this treaty, are to be regarded as one nation, on behalf of said tribes and bands, and duly authorized by them.

ARTICLE I.

**§ 3. Boundaries of Cession.**—The said tribes and bands of Indians hereby cede, relinquish, and convey to the United States, all their right, title and interest in and to the lands and country occupied by them, bounded and described as follows, to wit: Commencing at the point on the eastern side of Admiralty Inlet, known as Point Pully, about midway between Commencement and Elliott Bays; thence running in a southeasterly direction, following the divide between the waters of the Puyallup and Dwamish, or White rivers, to the summit of the Cascade mountains; thence southerly, along the summit of said range, to a point opposite the main source of the Skookum Chuck creek; thence to and down said creek to the coal mine; thence northwesterly to the summit of the Black Hills; thence northerly to the upper forks of the Satsop river, thence northeasterly, through the portage, known as Wilkes' Portage, to Point Southworth, on the western side of Admiralty Inlet; thence around

† Under date of Jan. 19, 1857, the commissioner of Indian affairs writes to the secretary of the Interior as follows: "The treaty negotiated on the 29th of December, 1854, with certain bands of Nisqually, Puyallup and other Indians of Puget's Sound, Washington Territory (article 2), provided for the establishment of reservations for the colonization of Indians, as follows: (1) The small island called Klah-chemin. (2) A square tract containing two sections near the mouth of the She-nah-nam creek. (3) Two sections on the south side of Commencement Bay. \* \* \* I have the honor now to submit for your consideration and action of the president, should you deem it necessary and proper, a report recently received from Governor Stevens, dated December 5, 1856, with the reports and maps therewith, and as therein stated, from which it will be observed that he has arranged a plan of colonization which involves the assignment of a much greater quantity of land to the Indians, under the sixth article of the treaty, than was named in the first article. He proposes the enlargement of the Puyallup Reserve at the south end of Commencement Bay to accommodate 500 Indians; the change in the location, and the enlargement of the Nisqually Reserve, and the establishment of a new location, Muckleshoot prairie, where there is a military station that is about to be abandoned." \* \* \* At the request of the secretary of the Interior, the president approved the suggestions of this letter Jan. 20, 1857.

<sup>1</sup>(See 10 U. S. Stat., p. 1132). Concluded at Medicine creek, Washington Territory Dec. 26, 1854. Ratified by the senate March 3, 1855. Proclaimed by the president April 10, 1855.

the foot of Vashon's Island, easterly and southeasterly, to the place of beginning.

#### ARTICLE II.

§ 4. **Boundaries of Reservation.**—There is, however, reserved for the present use and occupation of the said tribes and bands, the following tracts of land, viz.: The small island called Klah-che-min, situated opposite the mouths of Hammersley's and Totten's Inlets, and separated from Hartstene Island by Peale's Passage, containing about two sections of land by estimation; a square tract containing two sections or twelve hundred and eighty acres, on Puget Sound, near the mouth of the Shenah-nam creek, one mile west of the meridian line of the United States land survey, and a square tract containing two sections, or twelve hundred and eighty acres, lying on the south side of Commencement Bay, all which tracts shall be set apart, and so far as necessary, surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the tribe and the superintendent or agent. And the said tribes and bands agree to remove to and settle upon the same within one year after the ratification of this treaty, or sooner if the means are furnished them. In the mean time, it shall be lawful for them to reside upon any ground not in the actual claim and occupation of citizens of the United States, and upon any ground claimed or occupied, if with the permission of the owner or claimant. If necessary for the public convenience, roads may be run through their reserves, and, on the other hand, the right-of-way with free access from the same to the nearest public highway is secured to them.

\* \* \* \* \*

#### ARTICLE VI.

§ 5. **Individual Allotment of Lands.**—The president may hereafter, when in his opinion the interests of the Territory may require, and the welfare of the said Indians be promoted, remove them from either or all of said reservations to such other suitable place or places within said Territory as he may deem fit, on remunerating them for their improvement and the expenses of their removal, or may consolidate them with other friendly tribes or bands. And he may further, at his discretion, cause the whole or any portion of the lands hereby reserved or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas,<sup>2</sup> so far as the same may be applicable. Any substantial improvements heretofore made by any Indian and which he shall be compelled to abandon in consequence of this treaty, shall be valued under the direction of the president and payment be made accordingly therefor.

\* \* \* \* \*

#### ARTICLE XIII.

§ 6. **When Obligatory.**—This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the president and senate of the United States.

\* \* \* \* \*

<sup>2</sup> See No. 1300, *supra*, Note 2.

## CHAPTER VIII.—PORT MADISON RESERVE.†

† See "Lummi Reserve," No. 1300 and 1301, *supra*.

## CHAPTER IX.—PUYALLUP RESERVE.†

† See "Nisqually Reserve," No. 1307, *supra*. Under date of August 26, 1873, the commissioner of Indian affairs writes to the secretary of the interior as follows: "By the second article of the treaty concluded with the Nisqually and other Indians December 26, 1854 (Stat. at Large, vol. 10, p. 1132), 'a square tract containing two sections, or 1,280 acres, lying on the south side of Commencement Bay,' was set apart as a reservation for said Indians, and is known as the Puyallup Reserve. It appears from the records of this office that Governor Stevens, finding the Indians dissatisfied with the size and location of the reserve, as indicated by said treaty, agreed at a conference held with them August, 1856, to a readjustment of said reservation, the exterior boundaries of which were surveyed and established by his order. This was done prior to the extension of the lines of the public surveys over the surrounding and adjacent lands. A map of the survey was transmitted by Governor Stevens to this office, under date of December 5, 1856, giving a description of the courses and distances of said exterior boundaries of the reserve, as taken from the field notes of the survey on file in the office of superintendent Indian affairs, Washington Territory. This reservation, as readjusted and indicated on said map, was set apart for these Indians by executive order, dated January 20, 1857. It was intended to have this reservation bounded on its western side by the waters of Commencement Bay, from the southeasterly extremity of said bay, around northwardly to the northwest corner of the reservation on the southerly shore of Admiralty Inlet. The survey was thought to be made so as to give to the Indians this frontage upon the bay, with free access to the waters thereof. More recent surveys, however, develop the fact that there is land along this shore, and outside the reservation, arising from an error of the surveyor in leaving the line of low water mark, along the shore of said bay, and running a direct line to the place of beginning. In a report dated March 20 last, Superintendent Milroy calls attention to this inadvertence: and for the adjustment of the western boundary of said reservation, so that it may conform to the intentions of those agreeing to the same, as well as for the comfort and wants of the Indians, he recommends the following change, viz.: Instead of the direct line to the place of beginning, to follow the shore line, at low water mark, to the place of beginning. Inasmuch as the lands proposed to be covered by this change are in part already covered by the grant to the Northern Pacific Railroad Company and by donation claims, I would respectfully recommend that the president be requested to make an order setting apart for the use of these Indians an addition to said Puyallup Reservation, as follows, viz.: All that portion of section 34, township 21 north, range 3 east, in Washington Territory, not already included within the limits of the reservation. This would give them a mile of water frontage directly north of Puyallup river, and free access to the waters of Commencement Bay at that point." On September 6, 1873, the president issued the following order: "Agreeable to the recommendation of the acting secretary of the interior, it is hereby ordered that the Puyallup Reservation in Washington Territory be so extended as to include within its limits all that portion of section 34, township 21 north, range 3 east, not already included within the reservation."

## CHAPTER X.—QUILLEHUYTE RESERVE.†

† See "Quinalt Reserve," Nos. 1308 to 1310, *infra*.

## CHAPTER XI.—QUINAIELT RESERVE.

**No. 1308.—TREATY BETWEEN THE UNITED STATES AND THE QUI-NAI-ELT AND QUIL-LEH-UTE TRIBES OF INDIANS.<sup>1</sup>**

§ 1. **Preamble.**—James Buchanan, president of the United States of America, to all and singular to whom these presents shall come, greeting: WHEREAS, A treaty was made and concluded on the Qui-nai-elt river, in the Territory of Washington, on the first day of July, one thousand eight hundred and fifty-five, and at the city of Olympia, also in said Territory, on the twenty-fifth day of January, one thousand eight hundred and fifty-six, between Isaac I. Stevens, governor and superintendent of Indian affairs in the Territory aforesaid, on the part of the United States and the hereinafter named chiefs, headmen and delegates of the different tribes and bands of the Qui-nai-elt and Quil-leh-ute Indians on the part of said tribes and bands, and duly authorized thereto by them; which treaty is in the words and figures following, to wit:

§ 2. **Parties.**—Articles of agreement and convention made and concluded by and between Isaac I. Stevens, governor and superintendent of Indian affairs of the Territory of Washington, on the part of the United States, and the undersigned chiefs, headmen and delegates of the different tribes and bands of the Qui-nai-elt and Quil-leh-ute Indians, on the part of said tribes and bands and duly authorized thereto by them.

## ARTICLE I.

§ 3. **Boundaries of Cession.**—The said tribes and bands hereby cede, relinquish and convey to the United States all their right, title and interest in and to the lands and country occupied by them, bounded and described as follows: Commencing at a point on the Pacific coast, which is the southwest corner of the lands lately ceded by the Makah tribe of Indians to the United States, and running easterly with and along the southern boundary of the said Makah tribe to the middle of the coast range of mountains; thence southerly with said range of mountains to their intersection with the dividing ridge between the Chehalis and Quinialt rivers; thence westerly with said ridge to the Pacific coast; thence northerly along said coast to the place of beginning.

## ARTICLE II.

§ 4. **Boundaries of Reservation.**—There shall, however, be reserved for the use and occupation of the tribes and bands aforesaid a tract or tracts of land sufficient for their wants within the Territory of Washington, to be selected by the president of the United States, and hereafter surveyed or located and set apart for their exclusive use, and no white man shall be permitted to reside thereon without permission of the tribe and of the superintendent of Indian affairs or Indian agent. And the said tribes and bands agree to remove to and settle upon the same within one year after the ratification of this treaty, or sooner if the means are furnished them. In the mean time it shall be lawful for them to reside upon any lands not in the actual claim and occupation of citizens of the United States, and upon any lands claimed or occupied if with the permission of the owner or claimant. If necessary for the public convenience, roads may be run through said reservation, on compensation being made for any damage sustained thereby.

\* \* \* \* \*

<sup>1</sup>(See 12 U. S. Stat., p. 971). Concluded at Olympia, Washington Territory, Jan. 25, 1856; ratified by the senate March 8, 1859; proclaimed by the president April 11, 1859.



ARTICLE VI.

§ 5. **Individual Allotment of Lands.**—The president may hereafter, when in his opinion the interests of the Territory shall require, and the welfare of the said Indians be promoted by it, remove them from said reservation or reservations to such other suitable place or places within said Territory as he may deem fit, on remunerating them for their improvements and the expenses of their removal, or may consolidate them with other friendly tribes or bands, in which latter case the annuities payable to the consolidated tribes respectively shall also be consolidated; and he may further, at his discretion, cause the whole or any portion of the lands to be reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas,<sup>2</sup> so far as the same may be applicable. Any substantial improvements heretofore made by any Indians, and which they shall be compelled to abandon in consequence of this treaty, shall be valued under the direction of the president, and payment made accordingly therefor.

\* \* \* \* \*

ARTICLE XIII.

§ 6. **When Obligatory.**—This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the president and senate of the United States.

\* \* \* \* \*

<sup>2</sup> See No. 1300, *supra*. Note 2.

No. 1309.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—In accordance with the provisions of the treaty with the Quinaielt and Quillehute Indians, concluded July 1, 1855, and January 25, 1856 (Stats. at Large, vol. 12, p. 971), and to provide for other Indians in that locality, it is hereby ordered that the following tract of country in Washington Territory (which tract includes the reserve selected by W. W. Miller, superintendent of Indian affairs for Washington Territory, and surveyed by A. C. Smith, under contract of September 16, 1861), be withdrawn from sale and set apart for the use of the Quinaielt, Quillehute, Hoh, Quit and other tribes of fish-eating Indians on the Pacific coast, viz.: Commencing on the Pacific coast at the southwest corner of the present reservation, as established by Mr. Smith in his survey under contract with Superintendent Miller, dated September 16, 1861; thence due east, and with the line of said survey, 5 miles to the southeast corner of said reserve thus established; thence in a direct line to the most southerly end of Quinaielt lake; thence northerly around the east shore of said lake to the northwest point thereof; thence in a direct line to a point a half mile north of the Queetshee river and 8 miles above its mouth; thence with the course of said river to a point on the Pacific coast, at low water mark, a half mile above the mouth of said river; thence southerly, at low water mark, along the Pacific to the place of beginning.

<sup>1</sup> Issued by the president Nov. 4, 1873.

**No. 1310.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Boundaries.**—It is hereby ordered that the following described tracts of land situate in Washington Territory, viz.: Lots 3, 4, 5 and 6, section 21; lots 10, 11 and 12, and the southwest quarter of the southwest quarter, section 22; fractional section 27, and lots 1, 2 and 3, section 28, all in township 28 north, of range 15 west, be and the same are hereby withdrawn from sale and settlement and set apart for the permanent use and occupation of the Quillehute Indians: *Provided*, That this withdrawal shall not affect any existing valid rights of any party.

<sup>1</sup> Issued by the president Feb. 19, 1889.

**CHAPTER XII.—SHOALWATER RESERVE.****No. 1311.—EXECUTIVE ORDER.<sup>1</sup>**

§ 1. **Boundaries.**—Let the tract of land as indicated on the within diagram be reserved from sale and set apart for Indian purposes, as recommended by the secretary of the interior in his letter of the 18th instant, said tract embracing portions of sections 2 and 8, in township 14 north, range 11 west, Washington Territory.

<sup>1</sup> Issued by the president Sept. 22, 1866.

**CHAPTER XIII.—SKOKOMISH RESERVE.****No. 1312.—TREATY BETWEEN THE UNITED STATES AND THE S'KLALLAMS TRIBE OF INDIANS.<sup>1</sup>**

§ 1. **Preamble.**—James Buchanan, president of the United States of America, to all and singular to whom these presents shall come, greeting: WHEREAS, A treaty was made and concluded at Hahd Skus, or Point No Point, in Washington Territory, on the twenty-sixth day of January, eighteen hundred and fifty-five, between Isaac I. Stevens, governor and superintendent of Indian affairs for the said Territory, on the part of the United States, and the hereinafter named chiefs, headmen and delegates of the different villages of the S'klallams Indians, viz.: The Kah-tai, Squah-quaihtl, Tch-queen, Ste-tehtlum, Tsohkw, Yennis, El-hwa, Pishtst, Hunnint, Klat-la-wash and Oke-no, and also of the Sko-ko-mish, Too-an-hooch and Chem-a-kum tribes, occupying certain lands on the Straits of Fuca and Hood's Canal, in the Territory of Washington, on behalf of said tribes, and duly authorized by them, which treaty is in the words and figures following, to wit:

§ 2. **Parties.**—Articles of agreement and convention made and concluded at Hahdskus, or Point No Point, Suquamish Head, in the Territory of Washington, this twenty-sixth day of January, eighteen hundred and fifty-five, by Isaac I. Stevens, governor and superintendent of Indian

<sup>1</sup>(See 12 U. S. Stat., p. 933). Concluded at Point-no-Point, Washington Territory, Jan. 26, 1855; ratified by the senate March 8, 1859; proclaimed by the president April 29, 1859.

affairs for the said Territory, on the part of the United States and the undersigned chiefs, headmen and delegates of the different villages of the S'Klallams, viz.: Kah-tai, Squah-quaihtl, Tch-queen, Ste-tehtlum, Tsobkw, Yennis, Elh-wa, Pishtst, Hun-nint, Klat-la-wash and Oke-ho, and also of the Sko-ko-mish, To-an-hooch and Chem-a-kum tribes, occupying certain lands on the Straits of Fuca and Hood's Canal, in the Territory of Washington, on behalf of said tribes, and duly authorized by them.

ARTICLE I.

§ 3. **Boundaries of Cession.**—The said tribes and bands of Indians hereby cede, relinquish and convey to the United States all their right, title and interest in and to the lands and country occupied by them, bounded and described as follows, viz.: Commencing at the mouth of the Oke-ho river, on the Straits of Fuca; thence southeastwardly along the westerly line of territory claimed by the Makah tribe of Indians to the summit of the Cascade range; thence still southeastwardly and southerly along said summit to the head of the west branch of the Satsop river, down that branch to the main fork; thence eastwardly and following the line of lands heretofore ceded to the United States by the Nisqually and other tribes and bands of Indians to the summit of the Black Hills, and northeastwardly to the portage known as Wilkes' Portage; thence northeastwardly and following the line of lands heretofore ceded to the United States by the Dwamish, Suquamish and other tribes and bands of Indians to Suquamish Head; thence northerly through Admiralty Inlet to the Straits of Fuca; thence westwardly through said straits to the place of beginning, including all the right, title and interest of the said tribes and bands to any land in the Territory of Washington.

ARTICLE II.

§ 4. **Boundaries of Reservation.**—There is, however, reserved for the present use and occupation of the said tribes and bands the following tract of land, viz.: The amount of six sections, or three thousand eight hundred and forty acres, situated at the head of Hood's canal, to be hereafter set apart and, so far as necessary, surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the said tribes and bands, and of the superintendent or agent; but, if necessary for the public convenience, roads may be run through the said reservation, the Indians being compensated for any damage thereby done them. It is, however, understood that should the president of the United States hereafter see fit to place upon the said reservation any other friendly tribe or band to occupy the same in common with those above mentioned, he shall be at liberty to do so.

\* \* \* \* \*

ARTICLE VII.

§ 5. **Individual Allotment of Lands.**—The president may hereafter, when in his opinion the interests of the Territory shall require, and the welfare of said Indians be promoted, remove them from said reservation to such other suitable place or places within said Territory as he may deem fit, on remunerating them for their improvements and the expenses of their removal, or may consolidate them with other friendly tribes or bands. And he may further, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege and will locate thereon as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of

the treaty with the Omahas,<sup>2</sup> so far as the same may be applicable. Any substantial improvements heretofore made by any Indian, and which he shall be compelled to abandon in consequence of this treaty, shall be valued under the direction of the president, and payment made therefor accordingly.

\* \* \* \* \*

#### ARTICLE XIV.

§ 6. **When Obligatory.**—This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the president of the United States.

\* \* \* \* \*

<sup>2</sup>See No. 1300, *supra*, Note 2.

#### No. 1313.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—It is hereby ordered that there be withdrawn from sale or other disposition and set apart for the use of the S'Klallam Indians the following tract of country on Hood's Canal in Washington Territory, inclusive of the six sections situated at the head of Hood's Canal, reserved by treaty with said Indians January 26, 1855 (Stats. at Large, vol. 12, p. 934), described and bounded as follows: Beginning at the mouth of the Skokomish river; thence up said river to a point intersected by the section line between sections 15 and 16 of township 21 north, in range 4 west; thence north on said line to a corner common to sections 27, 28, 33 and 34 of township 22 north, range 4 west; thence due east to the southwest corner of the southeast quarter of the southeast quarter of section 27, the same being the southwest corner of A. D. Fisher's claim; thence with the said claim north to the northwest corner of the northeast quarter of the southeast quarter of said section 27; thence east to the section line between sections 26 and 27; thence north on said line to corner common to sections 22, 23, 26 and 27; thence east to Hood's Canal; thence southerly and easterly along said Hood's Canal to the place of beginning.

<sup>1</sup> Issued by the president Feb. 25, 1874.

#### CHAPTER XIV.—SNOHOMISH RESERVE.†

#### No. 1314.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—It is hereby ordered that the boundaries of the Snohomish, or Tulalip, Indian Reservation, in the Territory of Washington, provided for in the third article of the treaty with the Dwamish and other allied tribes of Indians, concluded at Point Elliott, January 22, 1855 (Stats. at Large, vol. 12, p. 928), shall be as follows, to wit: Beginning at low water mark on the north shore of Steamboat Slough, at a point where the section line between sections 32 and 33 of township 30 north, range 5 east, intersects the same; thence north on the line between sections 32 and 33, 28 and 29, 20 and 21, 16 and 17, 8 and 9, and 4 and 5, to the township line between townships 30 and 31; thence west on said township line

† See "Lummi Reserve," Nos. 1300 and 1301, *supra*.

<sup>1</sup> Issued by the president Dec. 23, 1873.

to low water mark on the shore of Port Susan; thence southeasterly with the line of low water mark along said shore and the shores of Tulalip Bay and Port Gardiner, with all the meanders thereof, and across the mouth of Ebey's Slough to the place of beginning.

## CHAPTER XV.—SPOKANE RESERVE.

### No. 1315.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—It is hereby ordered that the following tract of land, situated in Washington Territory, be and the same is hereby set aside and reserved for the use and occupancy of the Spokane Indians, namely: Commencing at a point where Chemakane creek crosses the forty-eighth parallel of latitude; thence down the east bank of said creek to where it enters the Spokane river; thence across said Spokane river westwardly along the southern bank thereof to a point where it enters the Columbia river; thence across the Columbia river northwardly along its western bank to a point where said river crosses the said forty-eighth parallel of latitude; thence east along said parallel to the place of beginning.

<sup>1</sup> Issued by the president Jan. 8, 1881.

## CHAPTER XVI.—SQUAXIN ISLAND RESERVE.

See "Nisqually Reserve," No. 1307, *supra*.

## CHAPTER XVII.—SWINOMISH RESERVE.†

### No. 1316.—EXECUTIVE ORDER.<sup>1</sup>

§ 1. **Boundaries.**—Agreeably to the within request of the acting secretary of the interior, it is hereby ordered that the northern boundary of the Swinomish Reservation, in the Territory of Washington, shall be as follows, to wit: Beginning at low water mark on the shore of Similk Bay, at a point where the same is intersected by the north and south line bounding the east side of the surveyed fraction of 9.80 acres, or lot No. 1, in the northwest corner of section 10, in township 34 north, range 2 east; thence north on said line to a point where the same intersects the section line between sections 3 and 10 in said township and range; thence east on said section line to the southeast corner of said section 3; thence north on east line of said section 3 to a point where the same intersects low water mark on the western shore of Padilla Bay.

† See "Lummi Reserve," Nos. 1300 and 1301, *supra*.

<sup>1</sup> Issued by the president Sept. 9, 1873.



## CHAPTER XVIII.—YAKAMA RESERVE.

No. 1317.—TREATY BETWEEN THE UNITED STATES AND THE YAKAMA NATION OF INDIANS.<sup>1</sup>

§ 1. **Preamble.**—James Buchanan, president of the United States of America, to all and singular to whom these presents shall come greeting: WHEREAS, A treaty was made and concluded at the treaty ground Camp Stevens, Walla Walla valley, on the ninth day of June in the year one thousand eight hundred and fifty-five, between Isaac I. Stevens, governor and superintendent of Indian affairs, for the Territory of Washington, on the part of the United States, and the hereinafter named head chief, chiefs, headmen and delegates of the Yakama, Palouse, Piquouse, Wenatshapam, Klickatat, Klinquit, Kow-was-say-ee, Li-ay-was, Skin-pah, Wish-ham, Shyiks, Oche-chotes, Kah-milt-pah and Se-ap-cat, confederate tribes and bands of Indians, occupying lands lying in Washington Territory who, for the purposes of this treaty are to be considered as one nation, under the name of "Yakama," with Kamaiakun as its head chief, on behalf of and acting for said bands and tribes, and duly authorized thereto by them; which treaty is in the words and figures following, to wit:

§ 2. **Parties.**—Articles of agreement and convention made and concluded at the treaty ground at Camp Stevens, Walla Walla valley, this ninth day of June, in the year one thousand eight hundred and fifty-five, by and between Isaac I. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, on the part of the United States, and the undersigned head chief, chiefs, headmen and delegates of the Yakama, Palouse, Piquouse, Wenatshapam, Klickatat, Klinquit, Kow-was-say-ee, Li-ay-was, Skin-pah, Wish-ham, Shyiks, Oche-chotes, Kah-milt-pah and Se-ap-cat, confederated tribes and bands of Indians occupying lands hereinafter bounded and described and lying in Washington Territory, who for the purpose of this treaty are to be considered as one nation, under the name of "Yakama," with Kamaiakun as its head chief, on behalf and acting for said tribes and bands, and being duly authorized thereto by them.

## ARTICLE I.

§ 3. **Boundaries of Cession.**—The aforesaid confederated tribes and bands of Indians hereby cede, relinquish and convey to the United States all their right, title and interest in and to the lands and country occupied and claimed by them, and bounded and described as follows, to wit: Commencing at Mount Rainier, thence northerly along the main ridge of the Cascade mountains to the point where the northern tributaries of Lake Che-lan and the southern tributaries of the Methow river have their rise; thence southeasterly on the divide between the waters of Lake Che-lan and the Methow river to the Columbia river; thence crossing the Columbia on a true east course to a point whose longitude is one hundred and nineteen degrees and ten minutes ( $119^{\circ}10'$ ), which two latter lines separate the above confederated tribes and bands from the Oakinakane tribe of Indians; thence in a true south course to the forty-seventh ( $47^{\circ}$ ) parallel of latitude; thence east on said parallel to the main Palouse river, which two latter lines of boundary separate the above confederated tribes and bands from the Spokanes; thence down the Palouse river to its junction with the Moh-hah-ne-she, or southern tributary of the same; thence in a southwesterly direction to the Snake river.

<sup>1</sup>(See 12 U. S. Stat., p. 951.) Concluded at Camp Stevens, Walla Walla valley, Washington Territory, June 9, 1855; ratified by the senate March 8, 1859; proclaimed by the president April 18, 1859.

at the mouth of the Tucannon river, separating the above confederated tribes from the Nez Perce tribe of Indians; thence down the Snake river to its junction with the Columbia river; thence up the Columbia river to the "White banks," below the Priest's rapids; thence westerly to a lake called "La Lac;" thence southerly to a point on the Yakama river called Toh-mah-luke; thence in a southwesterly direction to the Columbia river, at the western extremity of the "Big Island," between the mouths of the Umatilla river and Butler creek; all which latter boundaries separate the above confederated tribes and bands from the Walla Walla, Cayuse and Umatilla tribes and bands of Indians; thence down the Columbia river to midway between the mouths of White Salmon and Wind rivers; thence along the divide between said rivers to the main ridge of the Cascade mountains; and thence along said ridge to the place of beginning.

## ARTICLE II.

§ 4. **Boundaries of Reservation.**—There is, however, reserved from the lands above ceded for the use and occupation of the aforesaid confederated tribes and bands of Indians the tract of land included within the following boundaries, to wit: Commencing on the Yakama river, at the mouth of the Attahnam river; thence westerly along said Attahnam river to the forks; thence along the southern tributary to the Cascade mountains; thence southerly along the main ridge of said mountains, passing south and east of Mount Adams, to the spur whence flows the waters of the Klickitat and Pisco rivers; thence down said spur to the divide between the waters of said rivers; thence along said divide to the divide separating the waters of the Satass river from those flowing into the Columbia river; thence along said divide to the main Yakama, eight miles below the mouth of the Satass river, and thence up the Yakama river to the place of beginning, all of which tract shall be set apart, and, so far as necessary, surveyed and marked out for the exclusive use and benefit of said confederated tribes and bands of Indians, as an Indian reservation; nor shall any white man, excepting those in the employment of the Indian department, be permitted to reside upon the said reservation without permission of the tribe and the superintendent and agent. And the said confederated tribes and bands agree to remove to and settle upon the same within one year after the ratification of this treaty. In the meantime it shall be lawful for them to reside upon any ground not in the actual claim and occupation of citizens of the United States, and upon any ground claimed or occupied if with the permission of the owner or claimant, guaranteeing, however, the right to all citizens of the United States to enter upon and occupy as settlers any lands not actually occupied and cultivated by said Indians at this time, and not included in the reservation above named: *And provided*, That any substantial improvements heretofore made by any Indian, such as fields enclosed and cultivated and houses erected, upon the lands hereby ceded, and which he may be compelled to abandon in consequence of this treaty, shall be valued, under the direction of the president of the United States, and payment made therefor in money, or improvements of an equal value made for said Indian upon the reservation. And no Indian will be required to abandon the improvements aforesaid, now occupied by him, until their value in money, or improvements of an equal value, shall be furnished him as aforesaid.

\* \* \* \* \*

## ARTICLE VI.

§ 5. **Individual Allotment of Lands.**—The president may, from time to time, at his discretion, cause the whole or such portions of such reservation as he may think proper to be surveyed into lots, and assign the same to such individuals or families of the said confederated tribes and bands of Indians as are willing to avail themselves of the privilege, and

will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas,<sup>2</sup> so far as the same may be applicable.

\* \* \* \* \*

#### ARTICLE XI.

§ 6. **When Obligatory.**—This treaty shall be obligatory upon the contracting parties as soon as the same shall be ratified by the president and senate of the United States.

\* \* \* \* \*

<sup>2</sup> See No. 1300, *supra*, Note 2.

### TITLE VI.—MARRIAGE—DOWER.

**No. 1318.**—AN ACT TO AMEND AN ACT ENTITLED “AN ACT TO AMEND SECTION FIFTY-THREE HUNDRED AND FIFTY-TWO OF THE REVISED STATUTES OF THE UNITED STATES, IN REFERENCE TO BIGAMY, AND FOR OTHER PURPOSES,” APPROVED MARCH TWENTY-SECOND, EIGHTEEN HUNDRED AND EIGHTY-TWO.<sup>1</sup>

§ 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Certificate and Record of Marriages.**—SEC. 9. That every ceremony of marriage, or in the nature of a marriage ceremony of any kind, in any of the Territories of the United States, whether either or both, or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest and person, by whatever style or designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony, and by every officer, priest and person taking part in the performance of such ceremony, and shall be by the officer, priest or other person solemnizing such marriage or ceremony, filed in the office of the probate court, or, if there be none, in the office of court having probate powers in the county or district in which such ceremony shall take place, for record and shall be immediately recorded and be at all times subject to inspection as other public records. Such certificate, or the record thereof, or a duly certified copy of such record, shall be *prima facie* evidence of the facts

<sup>1</sup> (See 24 U. S. Stat., p. 635). Received by the president Feb. 19, 1887. Note by the department of state: “The foregoing act having been presented to the president of the United States for his approval, and not having been returned by him to the house of congress in which it originated within the time prescribed by the constitution of the United States, has become a law without his approval.” This act is commonly known as the “Edmunds-Tucker Act,” or “Anti-Polygamy Act,” and is generally supposed to apply only to the Territory of Utah. It was, however, held by the supreme court of Wyoming, in *France v. Connor*, 27 Pac. Rep. 569, that parts of said act, viz.: Sections 2 and 26 (See §§ 2, 3, 5), applied to all the Territories in existence at the time of its passage and it was further held that section 18 (§ 4), applied exclusively to Utah; but the supreme court of Montana, in *Chadwick v. Tatem*, 23 Pac. Rep.—, held this section also applied to all the Territories. These courts being of equal jurisdiction, and no higher court having passed upon the question, the section is here given in full.

required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. \* \* \*

§ 3. **Rule of Proof of Marriages.**—SEC. 10. That nothing in this act shall be held to prevent the proof of marriages, whether lawful or unlawful, by any evidence now legally admissible for that purpose.

\* \* \* \* \*

§ 4. **Dower.**—SEC. 18. (a) A widow shall be endowed of third part of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage, unless she shall have lawfully released her right thereto. (b) The widow of any alien, who at the time of his death shall be entitled by law to hold any real estate, if she be an inhabitant of the Territory at the time of such death, shall be entitled to dower of such estate in the same manner as if such alien had been a native citizen. (c) If a husband seized of an estate of inheritance in lands, exchanges them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given, or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange. (d) When a person seized of an estate of inheritance in lands, shall have executed a mortgage, or other conveyance in the nature of mortgage of such estate before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged or so conveyed, as against every person, except the mortgagee or grantee in such conveyance and those claiming under him. (e) Where a husband shall purchase lands during coverture, and shall at the same time execute a mortgage, or other conveyance in the nature of mortgage, of his estate in such lands to secure the payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or grantee in such conveyance or those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to her dower in such lands as against all other persons. (f) Where in such case the mortgagee, or such grantee or those claiming under him, shall, after the death of the husband of such widow, cause the land mortgaged, or so conveyed, to be sold, either under a power of sale contained in the mortgage or such conveyance, or by virtue of the decree of a court, if any surplus shall remain after payment of the moneys due on such mortgage or such conveyance and the costs and charges of the sale, such widow shall nevertheless be entitled to the interest or income of the one-third part of such surplus for her life as her dower. (g) A widow shall not be endowed of lands conveyed to her husband by way of mortgage, unless he acquire an absolute estate therein during the marriage period. (h) In case of divorce dissolving the marriage contract, for the misconduct of the wife, she shall not be endowed.

\* \* \* \* \*

§ 5. **Religious Societies, etc.: Property Rights Restricted.**—SEC. 26. That all religious societies, sects and congregations shall have the right to have and to hold, through trustees appointed by any court exercising probate powers in a Territory, only on the nomination of the authorities of such society, sect or congregation, so much real property for the erection or use of houses of worship and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect or congregation.

\* \* \* \* \*

## TITLE VII.—MILITARY RESERVATIONS.

**No. 1319.—AN ACT TO PROVIDE FOR THE DISPOSITION OF USELESS MILITARY RESERVATIONS.<sup>1</sup>**

**§ 1. Fort Walla Walla to be Sold.**—*Be it enacted, etc.,* That the secretary of war be and he is hereby authorized and empowered to transfer to the custody and control of the secretary of the interior, for disposition for cash, according to the existing laws of the United States relating to the public lands, after appraisement, to the highest bidder and at not less than the appraised value, nor at less than one dollar and twenty-five cents per acre, the United States military reservations at Forts Lane and Walla Walla, in the State of Oregon:<sup>2</sup> \* \* \* *Provided,* That the secretary of the interior shall, whenever in his opinion the public interests may require it, cause any of the foregoing reservations or part thereof to be subdivided into tracts less than forty acres each or into town lots: *And provided also,* That each subdivision shall be appraised and offered separately at public outcry, to the highest bidder, as hereinbefore provided, after which any unsold land or lot shall be subject to sale at private entry for the appraised value at the proper land office: *And provided further,* That should there be improvements of buildings or of building materials, or other valuable property, the secretary of the interior shall have them appraised; and no patent shall issue for the real estate until the improvements are paid for at the appraised value thereof, under such regulations as may be prescribed by the said secretary.

\* \* \* \* \*

<sup>1</sup> Approved Feb. 24, 1871. (See 16 U. S. Stat., p. 430.)

<sup>2</sup> See correction No. 1321, *infra*.

**No. 1320.—AN ACT TO AMEND THE FIRST SECTION OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE DISPOSITION OF USELESS MILITARY RESERVATIONS," APPROVED FEBRUARY TWENTY-FOURTH, EIGHTEEN HUNDRED AND SEVENTY-ONE.<sup>1</sup>**

**§ 1. Patent to Issue to Part of Walla Walla Reserve.**—*Be it enacted, etc.,* That the first section of an act entitled "An act to provide for the disposition of useless military reservations," approved February twenty-fourth, eighteen hundred and seventy-one, be amended by adding thereto the following proviso: *And provided further,* That upon payment of the appraised value by John C. Smith or his heirs, a patent shall be issued to said Smith or his heirs, for so much of the military bay reserve of Fort Walla Walla, Washington Territory, as is embraced in the north half of section twenty-six, township number eight north, of range number thirty-five east of the Willamette meridian, so soon after such payment as the said Smith shall prove to the satisfaction of the register and the receiver of the proper land office that he was in the lawful possession of said land under the preëmption laws of the United States at the time said land was taken by the military authorities for a hay reserve as aforesaid.

<sup>1</sup> Approved April 29, 1872. (See 17 U. S. Stat., p. 57.)



**No. 1321.—AN ACT TO CORRECT AN ERROR IN THE ACT APPROVED FEBRUARY TWENTY-FOURTH, EIGHTEEN HUNDRED AND SEVENTY-ONE.<sup>1</sup>**

§ 1. *Be it enacted, etc.*, That so much of the act entitled "An act to provide for the disposition of useless military reservations," approved February twenty-fourth, eighteen hundred and seventy-one,<sup>2</sup> as locates the military reservation of Fort Walla Walla in "Oregon," is hereby amended so as to read "Washington Territory," the actual location of said reservation.

<sup>1</sup> Approved June 5, 1872. (See 17 U. S. Stat., p. 226.)

<sup>2</sup> See No. 1319, *supra*.

**No. 1322.—AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE DISPOSITION OF USELESS MILITARY RESERVATIONS," APPROVED FEBRUARY TWENTY-FOURTH, EIGHTEEN HUNDRED AND SEVENTY-ONE.<sup>1</sup>**

§ 1. **Fort Walla Walla to be Sold.**—*Be it enacted, etc.*, That the secretary of war be and he is hereby authorized and directed to transfer to the custody and control of the secretary of the interior for disposition for cash according to the existing laws of the United States relating to the public lands, after appraisement, to the highest bidder, and at not less than the appraised value, nor at less than one dollar and twenty-five cents per acre, the United States military reservation at Fort Walla Walla, in the Territory of Washington: *Provided*, That the secretary of the interior shall, whenever in his opinion the public interests may require it, cause the foregoing reservation, or part or parts thereof, to be subdivided into tracts of less than forty acres each, or into town lots, with the necessary street or streets to make the same accessible: *And provided further*, That each subdivision, together with the buildings, building materials, or other property which may be thereon, shall be appraised and offered separately at public outcry, to the highest bidder, as hereinbefore provided, but not in subdivisions of more than forty acres each, after which any unsold land or lot shall be subject to sale at private entry for the appraised value at the proper land office.

<sup>1</sup> Approved June 8, 1872. (See 17 U. S. Stat., p. 335.)

**No. 1323.—AN ACT TO DONATE THE MILITARY RESERVATION AT FORT STEILACOOM TO THE TERRITORY OF WASHINGTON FOR THE USE OF THE INSANE ASYLUM.<sup>1</sup>**

§ 1. *Be it enacted, etc.*, That section thirty-three of township numbered twenty north, of range numbered two east of Willamette meridian, embracing a portion of Fort Steilacoom military reservation, and the military barracks thereon, in the county of Pierce and the Territory of Washington, be and the same is hereby donated to the said Territory of Washington for the use and purpose of an asylum for the insane of said Territory, and for no other purpose: *Provided*, That this act shall not be construed or have the effect to impair any rights of any person in or to any portion of said lands acquired under any of the land laws of the United States.

<sup>1</sup> Approved April 15, 1874. (See 18 U. S. Stat., p. 29.)

**No. 1324.—AN ACT GRANTING SIX HUNDRED AND FORTY ACRES OF LAND TO THE WIDOW AND HEIRS OF JAMES SINCLAIR, DECEASED.<sup>1</sup>**

§ 1. *Be it enacted, etc.*, That the tract of land known as the military timber reservation, in Walla Walla county, Washington Territory, containing six hundred and forty-one and sixty-four hundredths acres, situated partly in township seven north, of range thirty-six east, and partly in township seven north, of range thirty-seven east, of the Willamette meridian, be and the same is hereby granted as follows: The west half of the said tract to Mary Sinclair, widow of James Sinclair, deceased; and the east half to said Mary Sinclair and the heirs of the said James Sinclair deceased. And it shall be the duty of the commissioner of the general land office, by and through the proper United States land office in Washington Territory, to cause the said tract of land to be surveyed, and to issue a patent therefor to the said widow and heirs of James Sinclair, deceased, in accordance with the provisions of this act, and of the act of congress approved the twenty-seventh day of September, eighteen hundred and fifty, entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and make donations to settlers of the public lands."<sup>2</sup>

<sup>1</sup> (See 19 U. S. Stat., p. 417.) Received by the president March 10, 1876. Note by the department of state: "The foregoing act having been presented to the president of the United States for his approval, and not having been returned by him to the house of congress in which it originated within the time prescribed by the constitution of the United States, has become a law without his approval."

<sup>2</sup> See No. 1278, *supra*.

**No. 1325.—AN ACT GRANTING THE USE OF CERTAIN LANDS IN PIERCE COUNTY, WASHINGTON TERRITORY, TO THE CITY OF TACOMA FOR THE PURPOSES OF A PUBLIC PARK.**

§ 1. **Point Defiance.**—*Be it enacted, etc.*, That there is hereby granted to the city of Tacoma, in the county of Pierce, in the Territory of Washington, a license to occupy, improve and control, for the purposes of a public park for the use and benefit of the citizens of the United States, and for no other purposes whatever, the following described pieces or parcels of land, situate in the county of Pierce and Territory of Washington, and described as follows, namely: Lots one, two, three, four, five and six, and the east half of the southeast quarter, and the northeast quarter of the northwest quarter, and the southwest quarter of the northeast quarter of section fifteen, township twenty-one north, of range two east, and lots one, two and three, and the south half of the southwest quarter of section fourteen, same township and range, and lots one, two and three in section ten of the same township and range, containing six hundred and thirty-five acres, more or less: *Provided*, That the United States reserves to itself the fee of all said lands, and that this license is granted upon the express condition that the United States may take possession of and occupy said lands or any part thereof for military or other purposes whenever its proper officials see fit to order the same, and without any claim for compensation or damage on the part of said city of Tacoma.

<sup>1</sup> Approved December 17, 1888. (See 25 U. S. Stat., p. 637.)

## TITLE VIII.—SCHOOL LANDS.†

**No. 1326.—AN ACT FOR THE RELIEF OF THOMAS VAN DU ZEN AND HIS ASSIGNS FOR LANDS.<sup>1</sup>**

§ 1. **Preamble.**—WHEREAS, By the organic act of Washington Territory approved March second, Anno Domini eighteen hundred and fifty-three,<sup>2</sup> sections sixteen and thirty-six of the public lands in each township were reserved for school purposes; and

WHEREAS, The legislature of Washington Territory, by an act passed January twenty-third, Anno Domini eighteen hundred and sixty-three,<sup>3</sup> did authorize the board of county commissioners of any county to sell at private sale such portions of said sixteenth and thirty-sixth sections as were by prior settlement in the *bona fide* possession of any person at the time of the approval of said organic act; and

WHEREAS, The county commissioners of Jefferson county, in said Territory, did, at a regular term thereof, held at the county seat of said county on the third day of February, Anno Domini eighteen hundred and sixty-four, under and by virtue of the power given in said act of January twenty-third, Anno Domini eighteen hundred and sixty-three, sell and convey to Thomas Van Duzen, for one dollar and fifty cents gold coin per acre, the northeast quarter of section thirty-six, township twenty-nine, range one west, he being a *bona fide* settler on said land prior to the passage of said organic act; and

WHEREAS, Said sale and conveyance were made in good faith, and with the belief that said county commissioners had power to make it, and said money has gone into the common school fund of said Territory, and said Thomas Van Duzen and his assigns have made valuable improvements on said land, and are without remedy: therefore

§ 2. **Title Confirmed.**—*Be it enacted, etc.*, That the title to said northeast quarter of section thirty-six, township twenty-nine, Washington Territory, be and the same is hereby confirmed unto the said Thomas Van Duzen, his heirs and assigns in fee simple.

<sup>1</sup>Approved Dec. 28, 1876. (See 19 U. S. Stat., p. 501.)

<sup>2</sup>See No. 114, *supra*.

† See also "Donation Claims," Nos. 1278 to 1290, *supra*.

**No. 1327.—AN ACT FOR THE RELIEF OF CERTAIN SETTLERS UPON THE SCHOOL LANDS OF WASHINGTON TERRITORY.**

§ 1. **Preamble.**—WHEREAS, Sections sixteen and thirty-six of each township of land in Washington Territory was reserved unto that Territory for school purposes; and

WHEREAS, On December second, eighteen hundred and sixty-nine, the legislative assembly of that Territory, by an act duly passed, authorized the county commissioners of the several counties in that Territory to lease said lands for a term of years not exceeding six years, the money received therefor being placed in the school fund; and

WHEREAS, The lands so leased are greatly enhanced in value by the cultivation thereof, and the lessees thereof have made valuable improvements thereon and incurred large expense in reducing such land to a

<sup>1</sup>Approved Aug. 6, 1888. (See 25 U. S. Stat., p. 358.)

state of cultivation, and will incur much loss if they are caused to abandon their said improvements and cultivation; and

WHEREAS, The validity of the said leases is questioned: therefore.

§ 2. **Title Confirmed.**—*Be it enacted, etc.*, That the action of the county commissioners of the several counties of Washington Territory, under the authority supposed to reside in the act of the legislative assembly of said Territory of December second, eighteen hundred and sixty-nine, entitled "An act to provide for the leasing of school lands in Washington Territory,"<sup>2</sup> when had in conformity to said act be and the same hereby is confirmed, and that said act be and the same is hereby validated and confirmed.

<sup>2</sup> See No. 576, *supra*.

## TITLE IX.—MISCELLANEOUS.

### No. 1328.—AN ACT AMENDATORY OF THE ORGANIC ACT OF WASHINGTON TERRITORY.<sup>1</sup>

§ 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. SEC. 4. *And be it further enacted*, That the act of the legislative assembly of the Territory of Washington, approved January fourteenth, eighteen hundred and sixty-five, entitled "An act in relation to the county of Skamania,"<sup>2</sup> be and the same is hereby disapproved.

<sup>1</sup> Approved June 29, 1866. (Sec 14 U. S. Stat., p. 77.)

<sup>2</sup> See No. 991, *supra*.

### No. 1329.—AN ACT TO DISAPPROVE AN ACT OF THE LEGISLATIVE ASSEMBLY OF WASHINGTON TERRITORY RE-DISTRICTING THE TERRITORY AND RE-ASSIGNING THE JUDGES THERETO.<sup>1</sup>

§ 1. *Be it enacted, etc.*, That the act of the legislative assembly of the Territory of Washington, approved January twenty-five, eighteen hundred and sixty-eight, entitled "An act defining the several judicial districts of the Territory and assigning the judges thereto,"<sup>2</sup> be and the same is hereby disapproved.

<sup>1</sup> Approved July 27, 1868. (See 15 U. S. Stat., p. 239.)

<sup>2</sup> See No. 482, *supra*.

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# APPENDIX.

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## APPENDIX.

### TABLE A.—RELATIVE TO COURTS.†

#### **No. 480a.—AN ACT RELATIVE TO JURISDICTION OF CIVIL CAUSES IN THE FIRST JUDICIAL DISTRICT OF WASHINGTON TERRITORY.<sup>1</sup>**

§ 1. **Jurisdiction.**—SECTION 1. *Be it enacted, etc.*, That for the trial of civil causes, the several courts in the first judicial district of the Territory of Washington shall have concurrent and not exclusive jurisdiction of civil causes arising in any part of said first judicial district.

\* \* \* \* \*

<sup>1</sup> Passed Jan. 28, 1862. (See Ninth Reg. Sess. 1861-62, p. 57.) All conflicting laws and parts of laws repealed. In effect from date.

† See p. 350, Title IX, *supra*.

#### **No. 485b.—AN ACT TO ESTABLISH DISTRICT COURTS IN THE FIRST AND SECOND JUDICIAL DISTRICTS, AND PLACES FOR HOLDING THE SAME.<sup>1</sup>**

§ 1. **First and Second.**—SECTION 1. *Be it enacted, etc.*, That there shall hereafter be held in the first and second judicial districts regular terms of district courts in each year at the times and places hereinafter designated.

\* \* \* \* \*

§ 2. **First.**—SEC. 3. The court held at Vancouver shall be for the counties of Clarke and Skamania. The court held at Olympia shall be for the counties of Thurston, Mason and Chehalis. The court held at Kalama shall be for the counties of Cowlitz and Wahkiakum. The court held at the county seat of Pacific county shall be for the county of Pacific. The court held at the county seat of Lewis county shall be for the county of Lewis. The court held at Goldendale shall be for the county of Klickitat, and the several courts mentioned in this section shall be held by the judge of the second judicial district.

§ 3. **Second.**—SEC. 4. The court held at Walla Walla shall be for the county of Walla Walla. The court held at Dayton shall be for the county of Columbia. The court held at Colfax shall be for the county of Whitman. The court held at Yakima City shall be for the county of Yakima. The court held at Spokane Falls shall be for the counties of Spokane and Stevens. The courts mentioned in this section shall be held by the judge of the first judicial district.

§ 4. **Jurisdiction.**—SEC. 5. The courts herein mentioned are hereby established as district courts, and they shall have, by *mandamus*, prohibition and *certiorari*, the supervision and control of all proceedings before probate courts, justices of the peace and other inferior tribu-

<sup>1</sup> Approved Nov. 6, 1879. (See Seventh Bien. Sess. 1879, p. 70.) In effect from date.

nals. They shall, except where it is otherwise provided by law, have original and general jurisdiction of all matters at law, and of all cases in admiralty, and of all cases in equity, and of all cases for divorce, \* \* \* They shall have appellate jurisdiction in all cases civil \* \* \* where an appeal of writ of *certiorari* shall be taken from the judgment or proceedings of a probate court, justice of the peace or other inferior tribunal. They shall also have jurisdiction of all other matters made cognizable therein by any statute: *Provided, however*, That the courts held at the county seat of Lewis county, and at the county seat of Pacific county, and at Goldendale, and at Dayton, and at Spokane Falls, shall not have jurisdiction of causes in which the United States is a party: *And provided further*, That the courts held at Vancouver, Olympia and Kalama shall have jurisdiction in causes in which the United States is a party arising in the second judicial district, and the courts held at Walla Walla, Colfax and Yakima City shall have jurisdiction in cases in which the United States is a party, arising in the first judicial district

§ 5. **Clerks.**—SEC. 6. The judge authorized to hold the courts herein provided for shall appoint a clerk for each of said courts, and such clerk shall hold his office during the pleasure of said judge, and with the consent of said judge he may appoint one or more deputies: \* \* \*

\* \* \*  
§ 6. **Special Terms, etc.**—SEC. 12. If any term of any of the courts herein provided for, is about to end without dispatching all the business of such court, the judge thereof may by an order entered of record adjourn the holding of such court to any future day on which he is not required by law to hold a court at some other place, and all causes on the docket of said court, not otherwise disposed of, shall stand continued to such adjourned day, and if the terms of any of such courts have ended without dispatching all the business, or if there be a failure to hold any term, or if there is much business accumulating in such courts, the judge of the same may, by a warrant directed to the clerk, appoint a special term of court. The clerk shall enter the warrant in the journal of said court. At such special or adjourned term, any civil cause may be tried by consent. Judgment for want of an answer, defaults, judgments by confession and judgments on awards may be entered, and any motion or demurrer, cognizable by such court, may be heard and determined, whether it was pending at the regular term or not, and such special term may be adjourned from time to time, during the intervals between the regular terms, as the judge may deem necessary for the dispatch of the business of the court: \* \* \* All judgments, orders and decrees rendered and made by such court, at any adjourned or special term, shall have the same force and effect in all respects as if made during a regular term.

§ 7. **Style of Court.**—SEC. 13. In designating the courts, herein provided for, it shall be sufficient to designate them as "the district court" holding terms at \_\_\_\_\_, filling the blank by the name of the place in which said court is held.

\* \* \*  
§ 8. **Repealing Clause.**—SEC. 15. Any law, on the subject matters of this act, so far as the same shall necessarily conflict with the provisions of this act, is hereby repealed. This act also fixes the time of holding district courts in the first and second judicial districts, any law to the contrary notwithstanding: \* \* \*

\* \* \*

**No. 485c.—AN ACT TO ESTABLISH DISTRICT COURTS IN THE THIRD JUDICIAL DISTRICT, AND TO FIX THE TIME AND PLACES FOR HOLDING THE SAME.<sup>1</sup>**

§ 1. **Third.**—SEC. 1. *Be it enacted, etc.,* That there shall hereafter be held in the third judicial district regular terms of district courts in each year, at the times and places hereafter designated.

\* \* \* \* \*

§ 2. **Jurisdiction, etc.**—SEC. 3. The court held at Seattle shall be for the counties of King and Kitsap. The court held at Port Townsend shall be for the counties of Jefferson, Island, San Juan and Clallam. The court held at La Conner shall be for the district embraced within the present boundaries of Whatcom county. The court held at the county seat of Pierce county shall be for the county of Pierce. The court held at Snohomish city shall be for the county of Snohomish.

§ 3. **Jurisdiction.**—SEC. 4. The courts herein mentioned are hereby established as district courts, and they shall have, by *mandamus*, prohibition and *certiorari*, the supervision and control of all proceedings before probate courts, justices of the peace and other inferior tribunals. They shall, except where it is otherwise provided by law, have original and general jurisdiction of all matters of law, and all cases in admiralty, and of all cases in equity, and of all cases for divorces, and also of all crimes and misdemeanors. They shall have appellate jurisdiction in all cases, civil and criminal, where an appeal or writ of *certiorari* shall be taken from the judgment or proceedings of a probate court, justice of the peace or other inferior tribunal. They shall also have jurisdiction of all matters made cognizable therein by any statute: *Provided, however,* That the courts held at the county seat of Pierce county and at Snohomish City shall not have jurisdiction of causes in which the United States is a party: *And provided further,* That the courts held at Seattle, Port Townsend and La Conner shall have jurisdiction in causes in which the United States is a party arising in the Third judicial district.

§ 4. **Clerks.**—SEC. 5. The judge authorized to hold the courts herein provided for shall appoint a clerk for each of said courts, and such clerk shall hold his office during the pleasure of said judge, and with the consent of said judge he may appoint one or more deputies: \* \* \*

\* \* \* \* \*

§ 5. **Special Terms.**—SEC. 11. If any term of any of the courts herein provided for is about to end without dispatching all the business of such court, the judge thereof may, by an order entered of record, adjourn the holding of such court to any future day on which he is not required by law to hold a court at some other place, and all causes on the docket of said courts not otherwise disposed of shall stand continued to such adjourned day, and if the terms of any such courts have ended without dispatching all the business, or if there be a failure to hold any term, or if there is much business accumulating in such courts, the judge of the same may, by a warrant directed to the clerk, appoint a special term of court. The clerk shall enter the warrant in the journal of said court. At such special or adjourned term any civil cause may be tried by consent. Judgment for want of an answer, defaults, judgments by confession and judgments on awards may be entered, and any motion or demurrer cognizable by such court may be heard and determined, whether it was pending at the regular term or not, and such special term may be adjourned from time to time, during the intervals between the regular terms, as the judge may deem necessary for the dispatch of the business of the court: \* \* \* All judgments, orders and decrees rendered

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Bien. Sess. 1879, p. 73.) In effect from date.

and made by such court, at any adjourned or special term, shall have the same force and effect in all respects as if made during a regular term.

§ 6. **Style of Court.**—SEC. 12. In designating the courts herein provided for, it shall be sufficient to designate them, as “the district court,” holding terms at ———, filling the blank by the name of the place in which said court is held.

\* \* \* \* \*

§ 7. **Repealing Clause.**—SEC. 14. Any law on the subject-matter of this act, so far as the same shall necessarily conflict with the provisions of this act, is hereby repealed. This act also fixes the time of holding district courts in the Third judicial district, any law to the contrary notwithstanding: \* \* \*

\* \* \* \* \*

**No. 485d.**—AN ACT SUPPLEMENTAL TO AND AMENDATORY OF AN ACT ENTITLED “AN ACT TO ESTABLISH DISTRICT COURTS IN THE FIRST AND SECOND JUDICIAL DISTRICTS, AND TO FIX THE TIMES AND PLACES FOR HOLDING THE SAME,” APPROVED NOV. 6, 1879.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*

§ 2. **Transfer of Certain Causes to Lewis County—Seal of Court.**—SEC. 2. All civil actions now pending in the district courts of the Second judicial district, holding terms at Olympia, wherein the subject of the action or some part thereof is situated in said county of Lewis, according to section forty-eight of the civil practice act of 1878,<sup>2</sup> or wherein the cause of action or some part thereof arose in said county, according to section forty-eight of said civil practice act, or wherein service of summons was had upon any defendant in said county of Lewis, shall be transferred by order of the judge of said court to the district court of Lewis county for trial, and shall there be heard and determined in the same manner as though said case had been originally commenced in said district court of Lewis county, and certified copies of the necessary docket entries must be attached and made part of said transcript: *Provided*, That the clerk of said court is hereby authorized and empowered, under the discretion of the court or the judge thereof, to use a scroll for and as the seal of the office until a seal is obtained.

\* \* \* \* \*

<sup>1</sup> Approved November 14, 1879. (See Seventh Blen. Sess. 1879, p. 83. See also 485b, *supra*.) In effect from date.

<sup>2</sup> See Nos. 142 and 141, § 2, *supra*.

**No. 485e.**—AN ACT REGULATING THE REMOVAL OF CERTAIN CAUSES FROM THE DISTRICT COURT HOLDING TERMS AT OLYMPIA TO THE DISTRICT COURT OF LEWIS COUNTY.<sup>1</sup>

§ 1. SECTION 1. *Be it enacted, etc.*, That the act passed at the present session of the legislative assembly, entitled “An act supplemental to and amendatory of an act entitled ‘An act to establish district courts in the First and Second judicial districts, and fix the times and places for holding the same,’ approved November 6, 1879,”<sup>2</sup> which provides for the removal of certain causes, now pending in the district court holding terms at Olympia, to the district court of Lewis county, shall not include any civil actions now pending in said district court at Olympia where the service of the summons is not complete, or where the plaintiff

<sup>1</sup> Approved Nov. 14, 1879. (See Seventh Blen. Sess. 1879, p. 82.) In effect from date.

<sup>2</sup> See No. 485c, *supra*.



is not entitled to a default, unless there has been a general appearance entered by the defendant. But such causes shall be and remain for trial, judgment and execution in the district court holding terms at Olympia.

\* \* \* \* \*

**No. 485f.—AN ACT TO AMEND AN ACT ENTITLED “AN ACT TO ESTABLISH DISTRICT COURTS IN THE FIRST AND SECOND JUDICIAL DISTRICTS.”<sup>1</sup>**

§ 1. **Jurisdiction.**—SECTION 1. *Be it enacted, etc.*, That an act entitled “An act to establish district courts in the First and Second judicial districts,” approved November 6, 1879,<sup>2</sup> be amended to read as follows: Section 2 shall read: “\* \* \* The court held at Vancouver shall be for the counties of Clarke and Skamania; the court held at Olympia shall be for the counties of Thurston, Mason and Chehalis; the court held at Kalama shall be for the counties of Cowlitz and Wahkiakum; the court held at Oysterville shall be for the county of Pacific; the court held at Chehalis shall be for the county of Lewis; the court held at Goldendale shall be for the county of Klickitat; the court held at Yakima City shall be for the county of Yakima; and the several courts mentioned herein shall be held by the judge of the Second judicial district.” Section 5 shall be amended so as to read: “The courts herein mentioned are hereby established as district courts, and they shall have by *mandamus*, prohibition and *certiorari* the supervision and control of all proceedings before probate courts, justices of the peace and other inferior tribunals. They shall, except when it is otherwise provided by law, have original and general jurisdiction of all matters of law, and of all cases in admiralty, and of all cases in equity, and of all cases for divorce, and also of all crimes and misdemeanors. They shall have appellate jurisdiction in all cases, civil or criminal, where an appeal or writ of *certiorari* shall be taken from the judgment or proceedings of a probate court, justice of the peace, or other inferior tribunal. They shall also have jurisdiction of all other matters made cognizable therein by any statute: *Provided, however*, That the courts held at Chehalis in Lewis county, Oysterville in Pacific county, Goldendale in Klickitat county, and Vancouver in Clarke county, shall not have jurisdiction of causes in which the United States is a party: *And provided further*, That the courts at Kalama, Olympia and Yakima City shall have jurisdiction in causes in which the United States is a party, arising in the Second judicial district.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 10, 1881. (See Eighth Blen. Sess. 1881, p. 21.) All conflicting acts and parts of acts repealed. In effect from date. See also p. 358, No. 486, §§ 3, 5, *supra*.

<sup>2</sup> See No. 485c, *supra*.

**No. 485g.—AN ACT TO ATTACH THE COUNTY OF YAKIMA TO THE SECOND JUDICIAL DISTRICT.<sup>1</sup>**

§ 1. **Second District.**—SECTION 1. *Be it enacted, etc.*, That the county of Yakima be and the same is hereby attached to the Second judicial district of this Territory, and the said county shall hereafter be included in and form a part of said district.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 10, 1881. (See Eighth Blen. Sess. 1881, p. 32. See also p. 353, No. 486, § 3, *supra*.) In effect from date.

**No. 485h.—AN ACT TO ESTABLISH DISTRICT COURTS, AND FIXING THE REGULAR TERMS THEREOF, IN THE FIRST JUDICIAL DISTRICT.<sup>1</sup>**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Jurisdiction.**—SEC. 4. \* \* \* And the court for the county of Spokane shall have jurisdiction in all actions and causes, civil and criminal, arising in the First judicial district in which the United States is a party.

§ 3. **Stevens County.**—SEC. 5. That there shall be and there is hereby established a district court for the county of Stevens, in the First judicial district of the Territory of Washington, and the judge of said district is hereby authorized to hold said court; \* \* \*

\* \* \* \* \*

<sup>1</sup> Approved Nov. 21, 1881. (See Eighth Bien. Sess. 1881, p. 30.) All conflicting acts and parts of acts repealed. In effect from date.

<sup>2</sup> See also p. 353, No. 486, § 6.

**No. 485i.—AN ACT TO ESTABLISH COURTS IN THE THIRD JUDICIAL DISTRICT AND TO FIX THE TIME AND PLACES FOR HOLDING THE SAME.**

§ 1. SECTION 1. *Be it enacted, etc.*

\* \* \* \* \*

§ 2. **Third District.**—SEC. 3. The court held at Seattle shall be for the counties of King and Kitsap. The court held at Port Townsend shall be for the counties of Jefferson, Island, San Juan and Clallam. The court held at Laconner shall be for the district embraced within the present boundaries of Whatcom county. The court held at the county seat of Pierce county shall be for the county of Pierce. The court held at Snohomish City shall be for the county of Snohomish.

§ 3. **Jurisdiction.**—SEC. 4. The courts herein mentioned are hereby established as district courts and they shall have, by *mandamus*, prohibition and *certiorari*, the supervision and control of all proceedings before probate courts, justices of the peace, and other inferior tribunals. They shall, except where it is otherwise provided by law, have original and general jurisdiction of all matters of law, \* \* \* and all cases in equity, and of all cases for divorces. \* \* \* They shall have appellate jurisdiction in all cases civil \* \* \* where an appeal or writ of *certiorari* shall be taken from the judgment or proceedings of a probate court, justice of the peace or other inferior tribunal. They shall also have jurisdiction of all matters made cognizable therein by any statute: *Provided, however*, That the courts held at Laconner and Snohomish City shall not have jurisdiction of causes in which the United States is a party: *And provided further*, That the courts held at Seattle, Port Townsend and New Tacoma shall have jurisdiction in causes in which the United States is a party arising in the Third judicial district.

§ 4. **Clerk.**—SEC. 5. The judge authorized to hold the courts herein provided for shall appoint a clerk for each of said courts, and such clerk shall hold his office during the pleasure of said judge, and with the consent of said judge he may appoint one or more deputies: *Provided, however*, That clerks or deputy clerks heretofore appointed and acting in district courts held at any of the places designated in this act, shall remain in office until removed by said judge, and the bonds given by them as such clerks or deputies shall remain in force during their term of office.

\* \* \* \* \*

<sup>1</sup> Approved Dec. 1, 1881. (See Eighth Bien. Sess. 1881, p. 32.) In effect from date.

§ 5. **Appeals, etc.**—SEC. 9. Writs of error, bills of exceptions and appeals shall be allowed in all cases from the final decisions of any of the courts established by this act to the supreme court of the Territory, under such regulations as may be prescribed by law.

\* \* \* \* \*

§ 6. **How Courts Designated.**—SEC. 11. In designating the courts herein provided for, it shall be sufficient to designate them as "the district court holding terms at \_\_\_\_\_," filling the blank by the name of the place in which said court is held.

§ 7. **Repealing Clause.**—SEC. 12. Any law on the subject-matter of this act, so far as the same shall necessarily conflict with the provisions of this act, is hereby repealed. This act also fixes the time of holding district courts in the Third judicial district, any law to the contrary notwithstanding.

\* \* \* \* \*

**No. 485j.—AN ACT IN RELATION TO CERTAIN CAUSES IN THE DISTRICT COURT HOLDING TERMS AT OLYMPIA.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*, That all causes now pending in the district court, holding terms at Olympia, from Chehalis county, shall be and remain for trial, judgment and execution in the district court holding terms at Olympia.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 23, 1883. (See Ninth Bien. Sess. 1883, p. 53.) In effect from date.

**No. 886a.—AN ACT TO PROVIDE FOR HOLDING A TERM OF THE DISTRICT COURT AT PORT TOWNSEND.<sup>1</sup>**

§ 1. **Terms.**—SECTION 1. *Be it enacted, etc.*, That a regular term of the district court of the Third judicial district of this Territory, holding terms at Port Townsend, in said district, shall be held at Port Townsend, commencing on Thursday, the fifteenth day of November, A. D. 1883, \* \* \*

§ 2. **Jurisdiction.**—SEC. 2. That said district court may at said term exercise all its power and jurisdiction, to the same extent as at any regular term thereof, and may hear and determine all cases arising under the laws of the United States and cognizable within said Third judicial district.

§ 3. **Certain Acts Declared Valid.**—SEC. 3. That all acts and proceedings of said district court at the adjourned term thereof, which commenced on the tenth day of November, 1883, be and the same are hereby legalized and declared to be valid for all purposes: *Provided*, That this act shall not be so applied as to impair any vested rights.

<sup>1</sup> Approved Nov. 13, 1883. (See Ninth Bien. Sess. 1883, p. 53.)

**No. 486b.—AN ACT TO AMEND SECTION 2122 OF THE CODE OF WASHINGTON, 1881.<sup>1</sup>**

§ 1. **SECTION 1.** *Be it enacted, etc.*, That section 2122 of the Code of Washington, 1881,<sup>2</sup> be and the same is hereby amended by striking out of said section 2122 the word *Kalama*, where it occurs in said section, and inserting in lieu thereof the word *Vancouver*.

\* \* \* \* \*

<sup>1</sup> Approved Nov. 23, 1883. (See Ninth Bien. Sess. 1883, p. 39.) All conflicting acts or parts of acts repealed. In effect from date.

<sup>2</sup> See also p. 353, No. 486, § 6, *supra*.

## TABLE B.—REVENUE.

**No. 688a.—AN ACT AMENDING CHAPTER 193 OF THE CODE, RELATIVE TO THE CONSTRUCTION AND MAINTENANCE OF DIKES AND DITCHES.<sup>1</sup>**

**§ 1. Powers of Commissioners.**—SECTION 1. *Be it enacted, etc., That* section 2523<sup>2</sup> of the Code of Washington be amended to read as follows: "Section 2523. The commissioners elected as aforesaid shall have power to cause to be established, located and constructed, the said proposed improvement, and shall have full supervision over the same. They shall locate said improvement in the best possible manner for the interest of said owners of the land affected by the location of the same. They shall estimate the amount of damages; if in their opinion construction of said improvement will damage any owner of land more than the amount of benefits accruing to him by reason of the construction of the same, which should be paid to said owner, they shall assess the land benefited by said improvement for the cost and expenses of making the same, including therein the compensation to be paid to said commissioners and other officers created by this chapter, and also the damages heretofore mentioned. The said assessment shall be made upon the land improved in proportion to the taxable valuation thereof: *Provided*, That in fixing such taxable valuation no account shall be taken of the houses or tenements thereon, but said land shall be assessed without regard to such improvement. The sum so assessed against said land, by said commissioners, shall be a lien upon the land improved to the extent of the sum assessed. The said lien may be enforced, if the sum assessed is not paid by the owner of said land, by a suit in the district court having jurisdiction in the county in which such land is situated. The said suit shall be brought in the name of said commissioners against said land and the owner, and the costs of said suit shall likewise be a lien upon said land. Before said assessment is made the said commissioners shall notify all persons interested that, on a day and at a place certain, they will proceed to make and levy the assessment herein provided for. At said time and place any person interested may attend, and if he feels himself aggrieved by said assessment he may appeal to the said district court in the same manner as an appeal is taken from an order made by the board of county commissioners. The notice of appeal may be served on the secretary of the commissioners, or upon the chairman of the board created by this chapter. The notice that the assessment will be made and levied, as in this section provided for, shall be given by posting three written notices on or in the vicinity of the land to be improved, which notices must be posted at least ten days before said assessment, and must be under the hand of the secretary of the commissioners."

\* \* \* \* \*

<sup>1</sup> Approved Nov. 28, 1883. (See Ninth Blen. Sess. 1883, p. 30.) All conflicting acts or parts repealed. In effect from date.

<sup>2</sup> This section is not within the scope of this book, and hence does not appear herein.

## TABLE C.—TOWN PLATS.

**No. 430a.—CHAPTER CLXXV.—DEFECTIVE TOWN PLATS LEGALIZED.<sup>1</sup>**

**§ 1. Force and Effect of Certain Plats.**—SEC. 2338. All city or town plats, or any addition or additions thereto, heretofore made and recorded in the county auditor's office of any county in Washington Territory, showing lots, blocks, streets, alleys or public grounds, shall be conclusive evidence of the location and size of the lots, blocks and public grounds, and the location and width of each and every street or alley marked, laid down or appearing on such plat, and that all the right, title, interest or estate which the person or persons making or recording such plat, or causing the same to be made or recorded, had, at the time of making or recording such plat in or to such street, alleys or public grounds, was thereby dedicated to public use, whether the same was made, executed or acknowledged in accordance with the provisions of the laws of this Territory in force at the time of making the same or not.

\* \* \* \* \*

**§ 2. Correction of Imperfect Plat.—Re-survey.—Certificate of Surveyor.**—SEC. 2340. That whenever the recorded plat of any city or addition thereto does not definitely show the location or size of lots or blocks, or the location or width of any street or alley, in such city or addition, the city council of the city in which the land so platted is located is hereby authorized and empowered by ordinance, and the action of its proper officers, to cause a new and correct survey and plat of such city or addition to be made and recorded in the office of the county auditor of the county in which such city or addition is located, which corrected plat shall follow the plan of the original survey and plat, so far as the same can be ascertained and followed, and the certificate of the officer or surveyor making the same shall be endorsed thereon, referring to the original plat corrected thereby, and the deficit existing therein, and corrected by such new survey and plat; and the ordinance authorizing the making of such plat shall be recorded in the office of the county auditor of said county, and said certificate shall show where said ordinance is recorded. \* \* \*

**§ 3. Municipal Corporations May Regulate Platting.**—SEC 2341. All incorporated cities in the Territory of Washington are hereby authorized and empowered to regulate and prescribe the manner and form of making any further survey or plat of lands within their respective limits, and enforce such regulations by a fine of not exceeding one hundred dollars (\$100), to be recovered by and in the name of such city, or imprisonment not exceeding twenty days for each violation of any ordinance regulating such survey and platting: *Provided*, That nothing in this chapter shall be construed so as to apply to additions to towns in which no lots have been sold.

<sup>1</sup> Approved Nov. 5, 1881. (See Code 1881, p. 402. See also Nos. 425 to 433, *supra*, pp. 219 *et seq.*) For repealing clause and date in effect, see Nos. 338, 339, 340, *supra*.



## TABLE D.—ERRATA.

[For a correct list of sections, where the same are not given in full but simply by reference, see the table at the end of this volume.]

- No. 6, page 11, note 3: Instead of "No. 3, Art. XXXVI," read "No. 4, § 1."
- No. 7, page 15: After "Article I" and before § 5, there should be a line of asterisks to indicate that a part of the law is omitted.
- No. 34, page 35: After "Article VI" (p. 41) and before § 55, there should be a line of asterisks to indicate that a part of the law is omitted.
- No. 46, page 48, note 1: Instead of "1889," read "1849."
- No. 92, page 89, note 1: Instead of "See No. 21," read "See No. 23."
- No. 94, page 90, § 7, fourth line: Instead of "mortgage," read "marriage."
- No. 95, page 98, note 1: Instead of "See No. 21, § 2," read "See No. 21, § 1."
- No. 96, page 99: Same.
- No. 97, page 99: Same.
- No. 98, page 104: Same.
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- No. 100, page 106: Same.
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- No. 104, page 111: Same.
- No. 105, page 112: Same.
- No. 106, page 114: Same.
- No. 107, page 115: Same.
- No. 108, page 117: Same.
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- No. 110, page 118: Same.
- No. 111, page 119: Same.
- No. 112, page 120: Same.
- No. 113, page 120: Same.
- Page 141: After "Chapter V—Commencement of Actions," read "1. Summons."
- No. 153½, page 162: Instead of Note 1, read "See Nos. 709, 710."
- No. 189, page 187, note 1, third line: Instead of "151, § 9," read "151, § 10."
- No. 212, page 196: In the title, instead of "An act," read "Chapter CLVII."
- No. 265, page 223, note 1, second paragraph, first line: Instead of "p. 300," read "p. 100."
- No. 283, page 233, note 1: Instead of "Jan. 11, 1860," read "Jan. —, 1860."
- No. 460, page 337: The title should read "Chapter 188," instead of "187;" also note 1, third line, instead of "§ 12," read "§ 13."
- No. 497, page 360: In the title, instead of "An act," read "Chapter CXVI;" also note 1, second line, instead of "§ 1," read "§ 2."
- Page 487: After Title XX—Revenue," read "Chapter I—For General Purposes."
- No. 752½, page 498, note 1, second line: Instead of "No. 709," read "No. 641;" also, instead of "at 3," read "in the fifth line."
- No. 666, page 520, note 1, last line: Instead of "§ 35," read "§ 34."
- No. 669½, page 529: Instead of note 2 (p. 530), read "See No. 1204, *infra*;" also, note 3, "See No. 1207."
- No. 725, page 619: Note 1 is omitted. Should be as follows, "Approved Nov. 10, 1881. (See Eighth Bien. Special Sess. 1881, p. 87.)"

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			310*	2			250	214	29	326	8		
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			304*	9	.....	.....					9	.....	.....
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OF STATE.<sup>1 2</sup>

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- No. 121, page 128**—Date should be Nov. 10 instead of Nov. 13.
- No. 125, page 129**—§ 2, line 3, after “their,” should read “matters of.”
- No. 127, page 130**—Date should be Nov. 10 instead of Nov. 13.
- No. 130, page 130**—§ 4, line 5, after “and” should read “if;” also, § 11, line 3, instead of “are all removed” should read “all be removed.” Date of passage, April 28, 1854.
- No. 133, page 132**—§ 5, line 5, instead of “such concealment” read “his concealment;” also, § 13, line 4, after “the” read “cause of.”
- No. 134, page 133**—§ 6, line 3, “chapter” should read “title;” § 6, line 11, “six weeks” should read “sixty days.”
- No. 135, page 135**—Date should be Nov. 10 instead of Nov. 13.
- No. 142, page 139**—Date should be Nov. 10 instead of Nov. 13.
- No. 145, page 141**—§ 6, line 2, “where” should read “when;” also, § 8, line 8, “such Territory” should read “this Territory;” also, § 12, line 1, “when” should read “where.”
- No. 146, page 143**—§ 4, line 15, “will” should read “shall;” no [ ] shown in this section.
- No. 148, page 147**—§ 2, line 7, and § 5, line 11, “ss” does not appear; also, § 8, line 8, after “of” should read “the;” also, line 24, after “of” should read “his;” no [ ] shown in this section.
- No. 149, page 149**—§ 7, line 5, “made” should read “ordered;” also, § 8, line 11, “six weeks” should read “two months.”
- No. 150, page 151**—§ 7, line 15, “an” does not appear; also, § 11, line 3, instead of “their foreman” should read “his foreman;” also, § 12, line 5, “have” does not appear.
- No. 151, page 154**—§ 10, line 6, before “deposit” should read “the;” also, line 9, “service” should read “services;” also, line 16, “affidavit” should read “affidavits.” Date of approval is Nov. 10 instead of Nov. 13.
- No. 152, page 157**—§ 8, line 7, “of the summons” should read “of summons.”

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<sup>1</sup> This table does not include any of the laws of Oregon, nor of congress.

<sup>2</sup> It is intended that this table should show only *material* differences. It is exceedingly difficult to trace many of the original laws; some cannot be found at all, and others are so imperfectly drawn as to render a strictly accurate and certain comparison practically impossible. A great many of the titles appear to be inaccurate, and the method of subdividing into chapters and sections, especially during the first regular session (1854) and tenth regular session (1862-63) and the Code 1881, appears to have been largely arbitrary, the original law having been strictly followed in only a few cases. Such differences as these together with ordinary typographical and grammatical errors, are treated as immaterial for the purposes of this table. In the case of the Code, 1881, see the act authorizing compilation, No. 340, *supra*.



- No. 153**, page 160 — § 8, line 6, "in" should read "from;" also, line 19, "hereafter" should read "hereinafter;" also, § 4, line 5, "over twenty-one years of age" should read "over the age of twenty-one years;" also, § 8, line 6, "made" does not appear; also, § 11, line 7, "of" should be "to."
- No. 154**, page 163 — § 4, line 5, "admission of the affidavit" should read "admission of the defendant."
- No. 157**, page 167 — Date should be Nov. 10 instead of Nov. 13.
- No. 162**, page 171 — In effect from date.
- No. 163**, page 172 — § 3, line 5, "that" should appear after "and;" also, line 7 "with the intent" should read "with intent;" also, § 4, lines 7 and 8, "several writs may be issued at the same time to the sheriffs of different counties" does not appear; also, § 8, line 3, "this" should read "said."
- No. 165**, page 174 — Date should be Nov. 10 instead of Nov. 13.
- No. 166**, page 176 — § 3, line 13, "contracting a debt" should read "contracting the debt."
- No. 168**, page 177 — § 7, line 3, "or claimant" should read "or a claimant."
- No. 174**, page 183 — Date should be Nov. 10 instead of Nov. 13.
- No. 180**, page 184 — § 2, line 15, "of the plaintiff to" should read "by the plaintiff of."
- No. 181**, page 184 — Date of approval should be Nov. 10 instead of Nov. 13.
- No. 185**, page 185 — § 2, line 16, "when" should read "where."
- No. 189**, page 187 — Date should be Nov. 10 instead of Nov. 13.
- No. 196**, page 190 — Date should be Nov. 10 instead of Nov. 13.
- No. 197**, page 190 — § 8, line 3, after "court" should read "or judge."
- No. 200**, page 191 — Date should be Nov. 10 instead of Nov. 13.
- No. 204**, page 193 — In title, line 1, "clerk" should read "clerks;" also, date passed April 27, 1854.
- No. 205**, page 193 — § 5, line 6, "return and substance" should read "return or substance."
- No. 209**, page 195 — Date should be Nov. 10 instead of Nov. 13.
- No. 218**, page 198 — § 4, line 20, "or" should read "and;" date should be Nov. 10 instead of Nov. 13.
- No. 220**, page 200 — § 3, line 2, "affect" should read "effect."
- No. 225**, page 202 — Date should be Nov. 10 instead of Nov. 13.
- No. 232**, page 205 — § 2, lines 6 and 7, the following, "and upon the filing said transcript in the office of the county auditor, it shall," and also in lines 8 and 9 the words "in the county where such transcript shall be filed," do not appear; also § 3, line 5, after "provided" should read "for;" also, § 4, line 3, instead of "transcripts of judgments" should read "transcripts of a judgment;" also, § 5, line 10, after "thereof" should read "or a copy of the execution issued thereupon."
- No. 234**, page 206 — Date should be Nov. 10 instead of Nov. 13.
- No. 246**, page 210 — § 5, line 11, "the" should read "such."
- No. 249**, page 213 — Date should be Nov. 10 instead of Nov. 13.
- No. 257**, page 217 — At end of title should read "passed January 28th, 1863;" § 1, line 3, after "practice" should read "and proceedings;" and also after "court" should read "passed January 28th, 1863." Date of approval should be Jan. 29 instead of Jan. 9.
- No. 261**, page 221 — Date should be Nov. 10 instead of Nov. 13.

- No. 262**, page 221 — In title, line 1, "amend an act" should read "amend the act;" also, in effect from date.
- No. 272**, page 227 — Date should be Nov. 10 instead of Nov. 13.
- No. 274**, page 227 — § 8, line 1, "this chapter" should read "this act."
- No. 276**, page 229 — § 2 at end of line 4, "chapter" should read "act."
- No. 277**, page 231 — Date should be Nov. 10 instead of Nov. 13.
- No. 282**, page 232 — Passed April 27, 1854.
- No. 289**, page 235 — Date should be Nov. 10 instead of Nov. 13.
- No. 290**, page 235 — § 2, line 1, "an" should read "any."
- No. 296**, page 239 — Date should be Nov. 10 instead of Nov. 13.
- No. 304**, page 243 — § 2, line 4, "an action may" should read "a may;" also, § 3 at end of last line, "lien" does not appear; also, § 5, line 2, "Territory" should read "State;" also, line 5 after "publication" should read "directed by the court or judge;" also, § 9, line 4, "entered" should read "given;" also, § 17, line 6, "instrument duly acknowledged and filed" should read "instrument of writing filed."
- No. 305**, page 248 — Date should be Nov. 10 instead of Nov. 13.
- No. 311**, page 250 — § 1, line 3, after "instrument" should read "of;" also, § 2, line 1, "and be in force" does not appear.
- No. 312**, page 251 — § 6, line 7, "the property" should read "the other property;" also, § 13, line 10, "asking the confirmation" should read "asking confirmation."
- No. 314**, page 255 — Date should be Nov. 10 instead of Nov. 13.
- No. 316**, page 255 — § 5, line 4, "payment" should read "judgment;" § 14, line 2, "in the mortgage" should read "in mortgage."
- No. 318**, page 259 — § 3, last line, "the child" should read "such child."
- No. 326**, page 261 — § 1, line 3, after "same is" should read "hereby;" also, line 10, "lien" should read "alien."
- No. 335**, page 264 — Date should be Nov. 10 instead of Nov. 13.
- No. 336**, page 265 — § 1, line 3, "hereafter enacted" should read "hereafter to be enacted."
- No. 338**, page 265 — Wherever "Code" appears should read "Act;" also, § 15, line 2, "any" should read "the."
- No. 339**, page 266 — Wherever "Code" appears should read "Act."
- No. 348**, page 270 — § 4, line 4, "[and]" does not appear; line 11, instead of "any grantor" should read "the grantor."
- No. 358**, page 273 — Date should be Jan. 28 instead of Jan. 31.
- No. 365**, page 277 — § 2, line 6, "acknowledgment" should read "acknowledgments."
- No. 368**, page 278 — § 5, line 3, also, § 8, line 3, "chapter" should read "act."
- No. 370**, page 279 — § 2, line 9, after "official" should read "seal."
- No. 373**, page 280 — Passed March 16, 1854.
- No. 377**, page 281 — Date should be Nov. 10 instead of Nov. 13.
- No. 383**, page 285 — No enacting clause.
- No. 385**, page 285 — Passed March 13, 1854.
- No. 389**, page 287 — § 3, line 4, "commissioner" should read "commission."
- No. 391**, page 288 — Passed April 24, 1854.
- No. 392**, page 288 — In title "act in relation" should read "act relating."
- No. 401**, page 291 — Passed March 23, 1854.
- No. 406**, page 292 — § 3, line 3, "its" does not appear.

- No. 409**, page 298 — § 7, line 2, "such" should read "each."
- No. 413**, page 297 — Passed March 20, 1854.
- No. 418**, page 297 — Date should read Dec. 2 instead of Dec. 1.
- No. 420**, page 298 — Date should be Nov. 10 instead of Nov. 18.
- No. 425**, page 299 — Date should be Jan. 28 instead of Jan. 28.
- No. 426**, page 300 — Same.
- No. 429**, page 301 — Passed Nov. 15, 1869; also, note 1, it does not appear by any record that this act was transmitted to the governor.
- No. 434**, page 302 — § 3, line 13, after "repairs" should be "grading."
- No. 442**, page 318 — § 3, line 4, "the occupants" should read "the owners or occupants."
- No. 444**, page 322 — § 1, line 7, "herein" should read "therein;" also after "and" should read "to."
- No. 455**, page 331 — § 1, line 12, "and good" should read "the good."
- No. 457**, page 332 — An enacting clause appears at the beginning of each chapter; also, § 2, line 7, at end "in case" should be "in the case;" also, § 3, line 6, "foundation" should be "formation."
- No. 459**, page 336 — § 1, line 3, "erecting" should be "entering."
- No. 462**, page 337 — § 2, line 6, "purpose" should read "purposes;" also, line 10, "or" should read "of."
- No. 463**, page 339 — § 1, line 7, "and canal" should read "or canal."
- No. 468**, page 344 — § 1, line 10, and § 2, line 9, "this" should read "the;" also, line 11, "*Provided*," does not appear.
- No. 469**, page 344 — Line 2, of title, "and acquire" should read "and to acquire."
- No. 471**, page 345 — § 1, last line, "this chapter" should read "sections II and III of chapter I of this act;" also, § 2 does not appear; also, § 4, line 16, "business" should read "residence."
- No. 473**, page 348 — Passed March 27, 1854.
- No. 474**, page 348 — Passed April 24, 1854.
- No. 478**, page 349 — § 7, line 3, "belong" should read "belonging."
- No. 479**, page 350 — Passed Jan. 27, 1857.
- No. 485**, page 353 — § 2, line 1, "second district" should read "second judicial district."
- No. 486**, page 353 — § 1, line 2, "in this" should read "in the first and second judicial districts in this."
- No. 487**, page 354 — § 3, line 3, "county" does not appear.
- No. 488**, page 356 — § 1, line 12, "and" does not appear.
- No. 491**, page 358 — Approved Nov. 12, 1875.
- No. 492**, page 358 — § 2, line 5, "every final order" should read "all final orders."
- No. 493**, page 354 — Passed April 28, 1854.
- No. 498**, page 360 — § 13, line 4, "each and every" should read "each or every."
- No. 499**, page 361 — In title, 3d line, should be April 14, 1854; also, date of this act should be Jan. —, instead of Feb. 29.
- No. 502**, page 364 — § 5, line 3, after "October" should read "of each year."
- No. 506**, page 369 — § 6, line 2, "of Washington" does not appear; approved Nov. 14 instead of Nov. 11.
- No. 507**, page 371 — § 2, line 3, parentheses do not appear; approved Nov. 12, 1875.

- No. 513**, page 373 — Passed April 27 instead of April 11.
- No. 518**, page 378 — § 1, line 18, "father or" should be "father nor."
- No. 521**, page 381 — Passed April 27, 1854.
- No. 522**, page 385 — § 15, line 7, "the last" should read "the time last"; also, § 41, line 2, after "will" should read "shall."
- No. 524**, page 390 — Approved Nov. 14 instead of Nov. 11.
- No. 527**, page 396 — § 5, line 7, "and that they" should read "that they;" passed April 27, 1854.
- No. 528**, page 399 — § 24, line 7, "may" should read "shall."
- No. 535**, page 404 — § 12, line 4, "an executor" should read "the executor;" passed April 27, 1854.
- No. 538**, page 409 — § 9, last line, "most of" should read "most for;" § 23, line 4, "its" should be "his;" § 29, line 1, "the" should read "a;" approved Nov. 14 instead of Nov. 11.
- No. 543**, page 415 — Date should be Nov. 10 instead of Nov. 13.
- No. 547**, page 416 — § 5, line 6, "said" does not appear; also, line 8, "said" should read "such;" § 8, line 8, "in their" should read "to their;" also, in line 10, "liable" should read "have."
- No. 548**, page 418 — Date should be Nov. 14 instead of Nov. 11.
- No. 550**, page 419 — Passed April 27, 1854.
- No. 553**, page 423 — Approved Nov. 14 instead of Nov. 11.
- No. 555**, page 423 — Passed April 18, 1854.
- No. 556**, page 424 — § 1, line 6, "absent" should read "adverse;" also, line 7, "that" does not appear.
- No. 564**, page 427 — § 1, line 9, "iniquities" should read "indignities;" also, line 13, "any" should read "and."
- No. 568**, page 430 — § 1, line 4, "1862" should be "1864;" line 8, "Washington Territory" does not appear.
- No. 576**, page 434 — Passed the house Nov. 20 instead of Nov. 19; the council Nov. 22 instead of Nov. 24; also note 1, it does not appear by any record that this act was transmitted to the governor.
- No. 577**, page 435 — § 2, line 7, "Tp. 2 W." should read "Tp. 2 N."
- No. 578**, page 435 — Passed Jan. 26 instead of Jan. 29.
- No. 579**, page 436 — § 1, line 9, after "Cowlitz," should read "county."
- No. 581**, page 437 — § 1, line 2, "— Newland" should read "James Newland."
- No. 591**, page 441 — § 7, line 4, "county" should read "country;" also § 13, last line, "from sale" should read "from such sale."
- No. 595**, page 446 — Date Nov. 14 instead of Nov. 11.
- No. 599**, page 448 — Same.
- No. 602**, page 449 — Same.
- No. 605**, page 453 — Approved Dec. 7, 1881.
- No. 609**, page 455 — § 1, line 2, "accept a" should be "except."
- No. 611**, page 459 — § 7, last line, "or" should read "and;" § 8, line 6, "liens shall continue" should be "lien continues;" also, § 9, line 3, "1957" should read "hereof;" § 11, line 8, "of property" should read "of the property."
- No. 612**, page 461 — § 1, last line, "same" should read "claim."
- No. 613**, page 462 — Passed April 20, 1854.
- No. 614**, page 462 — § 1, line 2, "heretofore" should be "hereafter."
- No. 616**, page 463 — § 1 line 3, "twenty-one" should read "twenty;" also, § 2, line 6, "thereto" does not appear.

- No. 623**, page 471—§ 2, line 2, "or" should read "and."
- No. 624**, page 474—§ 1 at end of line 4, "creditor" should read "created;" also, § 6, line 20, "to" does not appear; also, line 21, "of" should read "for;" also, § 7, line 5, "two disinterested" should read "too other disinterested;" also, § 22, line 3, "and her share" should read "but her share."
- No. 629**, page 482—§ 3, line 7, "chapter shall" should read "act contained shall;" also, § 6, line 2, "either husband" should read "either the husband;" also, § 19, line 2, and § 20, line 3, and § 21, lines 1 and 3, "chapter" should read "act."
- No. 635**, page 487—Passed March 20, 1854.
- No. 636**, page 488—Passed April 29, 1854.
- No. 637**, page 488—Passed April 29, 1854.
- No. 638**, page 492—Passed March 28, 1854.
- No. 647**, page 495—All conflicting acts and parts of acts repealed.
- No. 663**, page 507—In title "county and" does not appear, and after "Territorial" should read "and other;" also, § 21, line 14, "county auditor" should read "county court;" also, § 25, lines 11 and 12, "goods and chattels of such delinquent taxpayer and if none be found, then upon the" does not appear.
- No. 669**, page 521—§ 37, line 11, "shall" should read "should;" also, § 43, line 12, "payment" should read "judgment."
- No. 669½**, page 529—Date should be Nov. 14 instead of Nov. 12.
- No. 670**, page 530—§ 48, line 8, "individual" should read "undivided."
- No. 672**, page 541—§ 9, line 4, "by law" should read "by this act;" also, § 15, line 4, "improvements" should read "estate;" also, § 21, lines 6 and 9, "law" should read "this act;" also, § 33, line 2, "Tuesday" should read "Thursday;" also, § 51, line 3, after "as" should read "in this act;" also, § 58, line 6, "revenue law" should read "this act," and line 8, "said law" should read "this act;" also, § 59, line 2, "revenue law" should read "this act;" also, § 61, line 2, "heretofore" does not appear.
- No. 711**, page 594—§ 4, lines 6 and 7, "twenty thousand feet" should read "twenty thousand square feet."
- No. 717**, page 598—§ 5, line 9, "any one year" should read "any year;" also, § 45, line 2, "not" does not appear;" also, § 57, line 12, "city or" should read "city for;" also, § 17, line 9, "reversed" should be "revised."
- No. 727**, page 631—§ 2, lines 8, 9 and 10, following does not appear: "may purchase, acquire, receive and hold property, real, personal and mixed for the use of the city; may lease, sell, and dispose of the same for the benefit of the city, and they shall."
- No. 748**, page 666—In effect from date; § 46, line 7, "the manner" should read "the same manner;" also, § 52, line 19, "receipt" should read "precipe;" also at end of line 5, "subject" should read "object;" also, § 55, line 4, "before force" should read "full;" also, line 6, "after the" should read "inhabitants of the."
- No. 755**, page 679—§ 8, line 1, "and be in force from" does not appear.
- No. 756**, page 681—§ 3, last line, "of town trustees" should read "of trustees;" also, § 5, line 4, "clearing" should read "cleaning;" also, line 6, after "due" should read "or becoming due."
- No. 763**, page 684—§ 5, line 9, "marshal" does not appear; also, § 35, line 9, "reviewed" should be "revived."
- No. 765**, page 693—§ 2, line 3, quotations do not appear.

- No. 776½**, page 703—§ 1, paragraph 5, line 6, after "streets" should read "alley or alleys;" also, paragraph 15, line 12, after "each" should read "lot or;" also, paragraph 18, next to last line "conclusive" should read "exclusive."
- No. 778**, page 717—§ 2, line 3, "the 'City of Snohomish'" should read "'Snohomish;'" also, § 9, paragraph 10, second line "specifically" does not appear; also, § 12, line 3, "certify" should read "testify;" date of this act should be Nov. 28 instead of Nov. 24.
- No. 779**, page 724—§ 8, line 3, "purposes" does not appear; also, § 20, line 8, "of lawyers" should read "of damages;" also, § 21, line 3, "ground" should read "land;" also, line 8, "a" should read "and;" also, § 23, line 4, "case" should read "cause;" also, § 24, line 3, "have" should read "has;" also, § 31, line 5, "accordance" should read "ordinance;" also, § 37, "is to" should read "is proposed to;" also, § 39, paragraph *second*, line 7, "consecutive" should read "successive;" also, § 46, line 3, "be" should read "has been;" also, § 57, line 5, "any" does not appear.
- No. 782**, page 744—§ 6, line 14, "works" should read "walks;" passed March 27, 1854.
- No. 789**, page 755—§ 3, line 1, after "corporate" should read "city;" also, line 24, "collected" should read "corrected;" also, § 12, line 4, "will" should read "would."
- No. 795½**, page 795—§ 2, line 3, "and style" does not appear.
- No. 799**, page 805—§ 7, line 13, "judgment" should read "payment."
- No. 800**, page 807—§ 10, line 12, after "the" should read "location and;" also, § 14, line 10, after "place" should read "or person;" also, § 23, last line, after "with" should read "except as herein provided;" also, § 25, line 17, "the owner" should read "the name of the owner;" also, § 51, last line, "elsewhere" should read "anywhere."
- No. 800½**, page 817—§ 6, line 33, "and any" should read "and take any."
- No. 804**, page 829—§ 1, line 2, "three" should read "eleven."
- No. 806**, page 829—§ 1, line 3, "four" should read "five."
- No. 813**, page 841—§ 6, line 9, "any one year" should read "any year;" also, § 13, line 3, "provisions of" should read "the powers given;" also, § 34, at end of line 2, "chapter" should read "charter;" also, § 40, line 3, "and none others" does not appear; also, after "this" should read "act."
- No. 815**, page 849—§ 1, line 3, "southeast" should be "southwest."
- No. 817**, page 855—In § 1, "Ahtanum" should be "Abtanum;" also, § 6, line 9, "or" should read "and." Date should be Nov. 13 instead of Nov. 23.
- No. 819**, page 858—§ 1, next to last line no quotations appear.
- No. 830**, page 865—§ 2, line 8, no quotations appear.
- No. 832**, page 867—§ 2, line 5, "review" should be "renew."
- No. 833**, page 868—Passed March 20, 1854.
- No. 835**, page 869—In title, third line, last word should be 1861 instead of 1869.
- No. 838**, page 870—§ 1, line 5, no quotations appear.
- No. 843**, page 874—§ 1, lines 5 and 6, no quotations appear.
- No. 844**, page 874—Line 4, "Grand Mound Union Cemetery Association" is quoted.
- No. 845**, page 876—§ 2, line 6, "real and" should read "real or;" also, § 6, at end of line 1, after "their" should read "regular."
- No. 847**, page 876—§ 3, all after "*provided*," inclusive, does not appear.



- No. 849**, page 878—"Meadow Creek Quartz Mining Company" is quoted both in title and text.
- No. 857**, page 884—Add to title after "Nisqually," "Washington Territory."
- No. 864**, page 889—§ 1, "Olympia Lodge No. 5, of Free and Accepted Masons," should be quoted. Passed March 7, 1854.
- No. 870**, page 892—§ 1, line 4, no quotation marks.
- No. 871**, page 892—§ 1, line 13, after "of" should read "real or."
- No. 875**, page 896—§ 1, line 7, no quotations.
- No. 876**, page 896—"Puget Sound Steam Navigation Company" should be quoted in title and text.
- No. 878**, page 897—§ 1, last line, no quotations; also, § 2, line 2, "perpetual" does not appear.
- No. 881**, page 900—§ 3, last line, "an" should read "the."
- No. 904**, page 915—§ 2, line 4 and line 6, "or" before possess and "may" before alter do not appear; also, § 4, line 5, "aforesaid" does not appear; also, § 5, line 16, "hereafter" should read "thereafter."
- No. 910**, page 921—§ 2, last line, after "such" should read "manner."
- No. 914**, page 925—§ 1, lines 5 and 6, "Washington Woolen Manufacturing Company" is quoted.
- No. 922**, page 932—§ 1, line 6, "thence west along said line of Sawamish" does not appear; also, line 7, "thence south along the coast of Pacific ocean" does not appear; passed April 14, 1854.
- No. 927**, page 934—Passed April 26, 1854.
- No. 928**, page 934—§ 1, last line, "county" does not appear; passed March 13, 1854.
- No. 933**, page 936—Passed April 21, 1854.
- No. 936**, page 937—§ 1, line 9, "townships four" should read "township line between township line between township four."
- No. 944**, page 942—Passed April 27, 1854.
- No. 961**, page 949—Passed March 13, 1854.
- No. 963**, page 949—§ 1, line 3, "the southern" should read "the west of the southern."
- No. 964**, page 950—All conflicting acts and parts of acts repealed.
- No. 965**, page 950—All conflicting acts and parts of acts repealed.
- No. 970**, page 952—Passed April 19, 1854.
- No. 989**, page 960—Passed March 9, 1854.
- No. 998**, page 963—§ 1, last two lines no quotations.
- No. 1011**, page 968—Passed April 24, 1854.
- No. 1012**, page 969—Lines 5 and 6, "thence south along summit of Rocky Mountains," does not appear; passed April 25, 1854.
- No. 1018**, page 971—Passed March 9, 1854.
- No. 1034**, page 982—Date should be Jan. 24 instead of Jan. 31.
- No. 1037**, page 983—Date should be Jan. 15 instead of Jan. 26.
- No. 1042**, page 984—Title, second line, after "wife" should be "&c."
- No. 1044**, page 985—Title, second line, "Naomi" should be "Naomy."
- No. 1055**, page 987—Title, second line, "Geo." should be "George."
- No. 1056**, page 987—Date should be Jan. 26 instead of Jan. 16.
- No. 1057**, page 987—Title, second line, after "Ford" should read "Jr."
- No. 1059**, page 988—Title, second line, "Wm. H." should be "Wm. M."
- No. 1074**, page 991—Date should be Jan. 26 instead of Jan. 24.

- No. 1089**, page 994 — Date should be Jan. 23 instead of Jan. 24.  
**No. 1092**, page 995 — Title, second line, "William" should read "W."  
**No. 1118**, page 1006 — Date should be Dec. 22 instead of Dec. 21.  
**No. 1119**, page 1006 — In title "Martha" should read "Marthia;" date should be 1875 instead of 1885.  
**No. 1120**, page 1007 — Wherever "Charles William" appears should read "Chas. W."  
**No. 1122**, page 1007 — Date should be Nov. 22 instead of Nov. 21.  
**No. 1131**, page 1010 — Date should be Oct. 27 instead of Nov. 2.  
**No. 1196**, page 1029 — In title, second line, "special" does not appear; also, § 2, line 1, "section" should read "chapter."

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